



1994

Illinois Register

Rules of Governmental Agencies

Volume 18, Issue 3 — January 21, 1994

Pages 561-804

IT Chicago Kent

JAN 24 1994

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Index Department
Administrative Code Div.
Springfield, IL
(217) 782-9786

published by
George H. Ryan
Secretary of State



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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1994

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 21, 1993	Dec. 28, 1993	1	Jan. 7, 1994	June 28, 1994	July 5, 1994	28	July 15, 1994
Dec. 28, 1993	Jan. 4, 1994	2	Jan. 14, 1994	July 5, 1994	July 12, 1994	29	July 22, 1994
Jan. 4, 1994	Jan. 11, 1994	3	Jan. 21, 1994	July 12, 1994	July 19, 1994	30	July 29, 1994
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Jan. 18, 1994	Jan. 25, 1994	5	Feb. 4, 1994	July 26, 1994	Aug. 2, 1994	32	Aug. 12, 1994
Jan. 25, 1994	Feb. 1, 1994	6 (Mon.)	Feb. 14, 1994	Aug. 2, 1994	Aug. 9, 1994	33	Aug. 19, 1994
Feb. 1, 1994	Feb. 8, 1994	7	Feb. 18, 1994	Aug. 9, 1994	Aug. 16, 1994	34	Aug. 26, 1994
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Mar. 15, 1994	Mar. 22, 1994	13	Apr. 1, 1994	Sept. 20, 1994	Sept. 27, 1994	40	Oct. 7, 1994
Mar. 22, 1994	Mar. 29, 1994	14	Apr. 8, 1994	Sept. 27, 1994	Oct. 4, 1994	41	Oct. 14, 1994
Mar. 29, 1994	Apr. 5, 1994	15	Apr. 15, 1994	Oct. 4, 1994	Oct. 11, 1994	42	Oct. 21, 1994
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Apr. 26, 1994	May 3, 1994	19	May 13, 1994	Nov. 1, 1994	Nov. 7, 1994 (Mon.)	46	Nov. 18, 1994
May 3, 1994	May 10, 1994	20	May 20, 1994	Nov. 7, 1994	Nov. 15, 1994	47	Nov. 28, 1994 (Mon.)
May 10, 1994	May 17, 1994	21	May 27, 1994	Nov. 15, 1994	Nov. 22, 1994	48	Dec. 2, 1994
May 17, 1994	May 24, 1994	22	June 3, 1994	Nov. 22, 1994	Nov. 29, 1994	49	Dec. 9, 1994
May 24, 1994	May 31, 1994	23	June 10, 1994	Nov. 29, 1994	Dec. 6, 1994	50	Dec. 16, 1994
May 31, 1994	June 7, 1994	24	June 17, 1994	Dec. 6, 1994	Dec. 13, 1994	51	Dec. 23, 1994
June 7, 1994	June 14, 1994	25	June 24, 1994	Dec. 13, 1994	Dec. 20, 1994	52	Dec. 30, 1994
June 14, 1994	June 21, 1994	26	July 1, 1994	Dec. 20, 1994	Dec. 27, 1994	1	Jan. 6, 1995
June 21, 1994	June 28, 1994	27	July 8, 1994	Dec. 27, 1994	Jan. 3, 1995	2	Jan. 13, 1995

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Department Advisory Council, Illinois Juvenile Justice Commission and Other Statewide and Regional Committees

- 2) Code Citation 89 Ill. Adm. Code 428

- 3) Section Numbers: Proposed Action:

428.10	Amend
428.20	Amend
428.30	Amend
428.40	Amend
428.50	New Section
428.60	Amend
428.70	Amend
428.90	Amend
428.150	Amend

- 4) Statutory Authority: Section 5 of the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, pars. 5005, 5017a-1 and 5017a-9) [20 ILCS 505/5, 505/17a, and 505/17a-9]; Section 11.7 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2061.7) [325 ILCS 5/11.7] and Sections 6.15 and 8 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, pars. 6.15 and 8) [20 ILCS 5/6.15 and 5/8].

- 5) A Complete Description of the Subjects and Issues Involved: These rules are amended to add a new Section regarding an additional advisory committee to the Department; to amend language which reflects the changes in composition of the State Advisory Committee on Day Care and the modified duties of the Statewide Citizens Committee on Child Abuse and Neglect and to amend current language related to the Regional Youth Planning Committees.

- 6) Will this proposed Amendment replace an emergency rule currently in effect? No.

- 7) Does this rulemaking contain an automatic repeal date: No.

- 8) Does this proposed amendment contain incorporations by reference? No.

- 9) Are there any other amendments pending on this Part? No.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3 (b) of the State Mandates Act (Ill. Rev. Stat. 1991, ch. 85, par. 2203) [30 ILCS 805/3].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 222
Springfield, Illinois 62701-1498
Telephone: 217/524-1983

TDD: 217/524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. No public hearings have been scheduled. Persons who need translation or interpretation services to enable their commentary should request assistance by contacting the Office of Rules and Procedures.

- 12) Initial Regulatory Flexibility Analysis: These amendments do not affect small businesses.

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: Not applicable.

B) Types of small businesses affected: None.

C) Reporting, bookkeeping or other procedures required for compliance: None.

D) Types of professional skills necessary for compliance: Not applicable.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 428
DEPARTMENT ADVISORY COUNCIL,
ILLINOIS JUVENILE JUSTICE COMMISSION AND
OTHER STATEWIDE AND REGIONAL COMMITTEES

Section	Purpose
428.10	Definitions
428.20	Children and Family Services Advisory Council
428.30	State Advisory Committee on Day Care
428.40	Child Welfare Advisory Committee
428.50	Statewide Citizens Committee on Child Abuse and Neglect
428.60	Illinois Juvenile Justice Commission
428.70	Regional Youth Planning Committees
428.90	Compliance with the Opening Meetings Act
428.150	

AUTHORITY: Implementing and authorized by Section 5, 17a-1 and 17a-9 of the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, pars. 5005, 5017a-1 and 5017a-9) [20 ILCS 505/5, 505/17a-1, 505/17a-9]; Section 11.7 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2061.7) [325 ILCS 5/11.7] and Sections 6.15 and 8 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, pars. 6.15 and 8) [20 ILCS 5/6.15 and 5/8].

SOURCE: Adopted and codified at 5 Ill. Reg. 7789, effective August 3, 1981; amended at 7 Ill. Reg. 10578, effective September 1, 1983; amended at 18 Ill. Reg. _____, effective _____.

Section 428.10 PurposeThis Part describes: **(f)**

- a) those committees established by State law or by this Part to advise the Department and to provide a forum for exchange between government and community and to encourage long term development and maintenance of systems of social services which are effective, efficient and humane; and **(f)(f)**
- b) the Illinois Juvenile Justice Commission, created by State law to supervise the administration of the juvenile justice program

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

in Illinois and perform other functions; and **(f)(f)(f)**

- c) regional youth planning committees, created by State law, to advise the Department in the development and maintenance of more comprehensive and integrated community-based youth services.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.20 Definitions

"Advisory Committees" means the Statewide Citizens' Committee on Child Abuse and Neglect established by the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1991, ch. 23, par. 2061.7) [325 ILCS 5/11.7], the State Advisory Committee on Day Care and regional advisory committees which provide advice and counsel to the Director of the Department on a regional or special program basis.

"Commission" means the Illinois Juvenile Justice Commission established by the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, par. 5017a-9) [20 ILCS 505/17a-9] to execute those powers and duties mandated in that Section of the Act.

"Committees" means both advisory committees and regional youth planning committees as defined above, unless otherwise specified in this Part.

"Council" means the Children and Family Services Advisory Council established by the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 6.15) [20 ILCS 5/6.15] to execute those powers and duties mandated in Section 8 of that Code (Ill. Rev. Stat. 1991, ch. 127, par. 8) [20 ILCS 5/8].

"Direct financial interest" means any type of monetary gain from a Department-funded program, such as that acquired by salaried staff of Department-funded agencies, or Department staff. Staff members of programs supported by funds from other than the Department, located within agencies providing a Department-funded service, are not eligible for regional youth planning committee membership if their working responsibilities are related to management, funding or policymaking.

"Geographic regions" means those groupings of counties designated by the Director for administration of Department programs.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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"Regional Youth Planning Committees" means the committees established by the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, par. 17a-1) [20 ILCS 505/172-1] to execute those powers and duties mandated in that Section of the Act.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.30 Children and Family Services Advisory Council

a) *There shall be a Children and Family Services Advisory Council to advise the Department with respect to its services and programs for children, and adults under its care.*

b) *There shall be sixteen seventeen members, one of whom shall be a senior citizen age 60 or over, appointed by the Governor, each appointed to a four year term. The terms of one-half of the Council shall expire every two years on the third Monday in January in odd numbered years. Members shall continue to serve until their successors are appointed and qualified.*

c) *A chairperson and vice chairperson shall be elected by the Council from among its members for a term of one year beginning July 1 of each year. An officer shall be eligible for re-election to the same office held for no more than two consecutive terms.*

d) *Notice of meetings and agendas of regular and special meetings shall, in addition to those required in Section 428.13, be sent to the Governor at least seven days prior to a scheduled meeting of the Council.*

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.40 State Advisory Committee on Day Care

a) *There shall be a State Advisory Committee on Day Care to advise the Department on general policy involving the provision of day care services under the state plan.*

b) *There shall be twenty-five thirty members appointed by the Director of the Department, each serving for a term of three years. The terms of one-third of the committee membership*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

shall expire every year on the 30th day of June. Members shall continue to serve until their successors are appointed. ~~No more than 20% of the members may have a direct financial interest in any Department funded program.~~

c) *A chairperson and vice chairperson shall be elected by the Committee from among its members for a term of one year beginning July 1 of each year. An officer shall be eligible for re-election to the same office held for no more than two consecutive terms.*

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.50 Child Welfare Advisory Committee

a) *There shall be a Child Welfare Advisory Committee to advise the Department on programmatic and budgetary matters related to the provision or purchase of child welfare services.*

b) *There shall be twenty-five members appointed by the Director of the Department. At least twenty of the members shall be appointed from representatives of the voluntary (not-for-profit) sector of child welfare service providers and the remaining members shall include individuals with training and/or knowledge related to child welfare services. The terms of appointments shall be for three years and expire on January 1. Members shall continue to serve until their successors are appointed.*

c) *A chairperson and vice chairperson shall be appointed by the Director from the members of the Committee. A staff member from the Department shall be appointed by the Director to help carry out the functions of the Committee.*

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 428.60 Statewide Citizens Committee on Child Abuse and Neglect

a) *There shall be a Statewide Citizens' Committee on Child Abuse and Neglect to advise the Department on general policy involving the provision of child protective services to children and their families. Director on setting priorities for the administration of child abuse prevention, shelters and service programs, and to*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

advise the Director on policies and procedures with respect to the medical neglect of newborns and infants.

- b) There shall be twenty-five members appointed by the Director of the Department, each serving for a term of three years. The terms of one-third of the Committee membership shall expire every year on the 30th days of June. Members shall continue to serve until their successors are appointed. No more than 20% of the membership may have a direct financial interest in any Department funded program.

- c) A chairperson and vice chairperson shall be appointed by the Director of the Department from among its members for a term of one year beginning July 1 of each year. An officer shall be eligible for reappointment to the same office held for no more than two consecutive terms.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.70 Illinois Juvenile Justice Commission

- a) *There shall be an Illinois Juvenile Justice Commission to supervise the administration of federal funds under the "Juvenile Justice and Delinquency Prevention Act of 1974, as amended" and to advise the Department on general policy related to juvenile justice and delinquency prevention services and programs for youth.*

- b) *There shall be twenty-five members appointed by the Governor, each serving for a term of three years. The terms of one-third of the Commission membership shall expire every year on the 30th 31st day of June January. Members shall continue to serve until their successors are appointed.*

- c) *A chairperson, from among its members, shall be appointed by the Governor and serve as chief officer of the Commission. A vice-chairperson, elected by the Commission from among its members, shall fulfill duties as designated by the chairperson.*

- d) *Notice of meetings and agendas of regular and special meetings shall, in addition to those persons required in Section 428.13-14, be sent to the Governor at least seven days prior to a scheduled meeting of the Commission.*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.90 Regional Youth Planning Committees

- a) *There shall be regional youth planning committees within each region as designated by the Director of the Department to advise the Department in regard to regional youth service needs and problems; to prepare an annual regional youth services plan; and to review and comment upon regional youth service grant applications.*

- b) *There shall be ten members appointed by the Director of the Department to each Committee, each member serving for a term of three years. All members shall have residency within the regional area and shall be broadly representative of the varied geographic interests. Membership shall reflect a broad representation of community interests and perspectives, including local government, law enforcement, education and training, juvenile justice, mental health, human services and youth. The terms of one-third of each Committee membership shall expire every year on the 30th day of June. Members shall continue to serve until their successors are appointed. No member may have a direct financial interest in any Department funded program.*

- c) *A chairperson and vice chairperson shall be appointed by the Director from among its members for a term of one year beginning July 1 of each year. An officer shall be eligible for reappointment to the same office held for no more than two consecutive terms.*

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 428.150 Compliance with the Open Meetings Act

All meetings of the Commission shall be held in compliance with notice and other requirements of the "Illinois Open Meetings Act" (Ill. Rev. Stat. 1991, ch. 102, par. 41.01) (5 ILCS 120/1.01 et seq.).

(Source: Amended at 18 Ill. Reg. _____, effective _____)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administration of the Illinois Public Community College Act
- 2) Code Citation: 23 Ill. Adm. Code 1501
- 3) Section Numbers: Proposed Action:
 1501.301 amendment
 1501.302 amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 122, pars. 102-1 et seq., pars. 103-1 et seq., and par. 106-5.3)[110 ILCS 805/2-1 et seq., 805/3-1, and 6-5.3]
- 5) A Complete Description of the Subjects and Issues Involved: Due to the unique requirements of each, a critical need has been identified for an Associate in Fine Arts degree for community college students planning on majoring in music or art and for an Associate in Engineering Science degree for students planning on majoring in engineering. Since neither the existing Associate in Arts or the Associate in Science degrees can accommodate the unique requirements, the proposed rule additions will create and define the structure of the Associate in Fine Arts and the Associate in Engineering Science degrees for the community colleges to ensure transferability.

The proposed rule revisions also include updates to the general education requirements for the Associate in Arts and Associate in Science degrees to bring them in line with the ICCB models, changes from percentages to the equivalent credit hours for the other degree requirements and a revision that makes the criteria for degrees applicable to all new and existing degrees.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a state mandate.

ILLINOIS COMMUNITY COLLEGE BOARD

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- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

 Zach Mathew, Director
 Administrative Services
 Illinois Community College Board
 509 South Sixth Street, Room 400
 Springfield, Illinois 62701-1874
 Telephone: (217) 785-0015
- 12) Initial Regulatory Flexibility Analysis: Not Applicable

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501

ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

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1501.102	Advisory Groups
1501.103	Rule Adoption (Recodified)
1501.104	Manuals
1501.105	Advisory Opinions
1501.106	Executive Director
1501.107	Information Request (Recodified)
1501.108	Organization of ICCB (Recodified)
1501.109	Appearance at ICCB Meetings
1501.110	Appeal Procedure
1501.111	Reporting Requirements (Repealed)
1501.112	Certification of Organization (Repealed)
1501.113	Administration of Detachments and Subsequent Annexations
1501.114	Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

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1501.201	Reporting Requirements
1501.202	Certification of Organization
1501.203	Delineation of Responsibilities
1501.204	Maintenance of Documents or Information
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SUBPART C: PROGRAMS

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1501.303	Program Requirements
1501.304	Statewide and Regional Planning
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1501.307	Cooperative Agreements and Contracts
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1501.401	Definition of Terms
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1501.501	Definition of Terms
1501.502	Financial Planning
1501.503	Audits
1501.504	Budgets
1501.505	Nonresident Non-Resident Student Tuition Calculations
1501.506	Published Financial Statements
1501.507	Credit Hour Grants
1501.508	Special Populations Grants
1501.509	Workforce Preparation Grants
1501.510	Reporting Requirements
1501.511	Chart of Accounts
1501.514	Business Assistance Grants (Repealed)
1501.515	Advanced Technology Equipment Grants
1501.516	Capital Renewal Repair and Renovation Grants
1501.517	Retirees Health Insurance Grants
1501.518	Uncollectible Debts

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: CAPITAL PROJECTS

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1501.601	Definition of Terms
1501.602	Approval of Capital Projects
1501.603	State Funded Capital Projects
1501.604	Locally Funded Capital Projects
1501.605	Project Changes
1501.606	Progress Reports (Repealed)
1501.607	Reporting Requirements
1501.608	Approval of Projects in Section 3-20.3.01 of the Act
1501.609	Completion of Projects Under Section 3-20.3.01 of the Act
1501.610	Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section	
1501.701	Definition of Terms
1501.702	Applicability
1501.703	Recognition
1501.704	Programs
1501.705	Finance
1501.706	Personnel
1501.707	Facilities

SUBPART H: PERSONNEL

Section	
1501.801	Definition of Terms
1501.802	Sabbatical Leaves

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act (Ill. Rev. Stat. 1991, ch. 122, pars. 102-1 et seq., pars. 103-1 et seq., and par. 106-5.3)[110 ILCS 805/2-1 et seq., 805/3-1, and 6-5.3]

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984;

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emergency amendment at Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 17 Ill. Reg. _____, effective _____.

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SUBPART C: PROGRAMS

Section 1501.301 Definition of Terms

Associate Degree. An "Associate Degree" is an award for satisfactory completion of a curriculum of 60 semester credit hours or more.

Associate in Arts Degree. An "Associate in Arts Degree" is an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the arts, humanities, or social or behavioral sciences or one of the professional fields with these disciplines as a base.

Associate in Fine Arts Degree. An "Associate in Fine Arts Degree" is an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the fine arts -- art, music, or theater.

Associate in Engineering Science Degree. An "Associate in Engineering Science Degree" is an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in engineering.

Associate in Science Degree. An "Associate in Science Degree" is an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the mathematical, biological, or physical sciences or one of the professional fields with these disciplines as a base.

Associate in Applied Science Degree. An "Associate in Applied Science Degree" is an award for the satisfactory completion of a prescribed curriculum intended to prepare individuals for employment in a specific field.

Associate in General Studies Degree. An "Associate in General Studies Degree" is an award for the satisfactory completion of a curriculum that has been individually designed by mutual agreement between the student and his/her college appointed advisor to meet the student's educational intent.

(Source: Amended at 17 Ill. Reg. _____, effective _____)

Section 1501.302 Units of Instruction, Research, and Public Service

- a) Approval of New Units of Instruction. Each proposed new unit of instruction shall be submitted to the ICCB for approval. The criteria for approval of new units of

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instruction which also are required for existing programs offered by community colleges are:

1) Mission and Objectives.

- A) The objectives of the unit of instruction are consistent with the mission of the college as set forth in Section 1-2(e) of the Public Community College Act.
- B) The objectives of the unit of instruction are consistent with what the title of the unit of instruction implies.

2) Academic Control.

- A) The design, conduct, and evaluation of the unit of instruction are under the direct and continuous control of the college's established processes for academic planning and quality maintenance, and clear provision is made for ensuring a high level of academic performance of faculty and students.
- B) The admission, course placement, and graduation requirements for the unit of instruction are consistent with the stated objectives of the unit of instruction and with Section 3-1.7 of the Act where applicable.

3) Curriculum. The content of the curriculum ensures that the objectives of the unit of instruction will be achieved.

- A) The range of total number of credit hours required for completion of an associate degree curriculum shall be within the following parameters:
 - i) For the Associate in Arts degree and the Associate in Science degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent;
 - ii) For the Associate in Fine Arts and the Associate in Engineering Science degree, a total requirement of not less than 60 semester credit hours nor more than 68 semester credit hours or the quarter credit hour equivalent;
 - iii) For the Associate in Applied Science degree, a total requirement of not less than 60 credit hours nor more than 72 semester credit

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hours or the quarter credit hour equivalent, except in such occupational fields in which accreditation or licensure by a state or national organization requires additional coursework; and

- iv) iii) For the Associate in General Studies degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent.

B) Each associate degree curriculum shall include a specific general education component consisting of coursework in communication, arts and humanities, social and behavioral sciences, and mathematics and science within the following parameters:

- i) For the Associate in Arts degree and the Associate in Science degree, the general education component required will represent at least 60 percent of the total number of 38 semester credit hours or the quarter hour equivalent for completion;

- ii) For the Associate in Fine Arts degree and the Associate in Engineering Science degree, the general education component required will represent at least 27 semester credit hours or the quarter hour equivalent for completion;

- iii) For the Associate in Applied Science degree, the general education component required will represent at least 15 semester credit hour or the quarter hour equivalent ~~no less than 25 percent nor more than 50 percent of the total number of credit hours required for completion;~~ and

- iv) iii) For the Associate in General Studies degree, the general education component required will represent no less than 30 percent of the total number of credit hours required 20 semester credit hours or the quarter hour equivalent for completion.

(Source: Amended at 17 Ill. Reg. _____, effective _____.)

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- 1) HEADING OF THE PART: REGISTER OF LAND AND WATER RESERVES
- 2) CODE CITATION: 17 Ill. Adm. Code 4010
- 3) SECTION NUMBERS:
- | | |
|----------|-------------|
| 4010.110 | New Section |
| 4010.120 | New Section |
| 4010.130 | New Section |
| 4010.140 | New Section |
| 4010.150 | New Section |
| 4010.160 | New Section |
| 4010.170 | New Section |
| 4010.210 | New Section |
| 4010.220 | New Section |
| 4010.230 | New Section |
| 4010.240 | New Section |
| 4010.250 | New Section |
| 4010.260 | New Section |
| 4010.270 | New Section |
| 4010.280 | New Section |
| 4010.310 | New Section |
| 4010.320 | New Section |
- PROPOSED ACTION:

- 4) STATUTORY AUTHORITY: Implementing and authorized by the Illinois Natural Areas Preservation Act (Ill. Rev. Stat. 1991, ch. 105, pars. 701 et seq. [525 ILCS 30/1 et seq.]).

- 5) A COMPLETE DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:
The proposed rules provide for a process where certain lands and waters may be registered to ensure protection of their natural qualities.

- 6) WILL THIS PROPOSED RULE REPLACE AN EMERGENCY RULE CURRENTLY IN EFFECT? No

- 7) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No

- 8) DO THESE PROPOSED RULES CONTAIN INCORPORATIONS BY REFERENCE? No

- 9) ARE THERE ANY OTHER PROPOSED RULES PENDING ON THIS PART? No

- 10) STATEMENT OF STATEWIDE POLICY OBJECTIVES: This rule has no impact on local governments.

- 11) TIME, PLACE AND MANNER IN WHICH INTERESTED PERSONS MAY COMMENT ON THIS PROPOSED RULEMAKING: Comments on the proposed rule

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may be submitted in writing for a period of 30 days following publication of this notice to:

Carolyn Taft Grosboll
Illinois Nature Preserves Commission
600 North Grand Ave., West
Springfield, Illinois 62706

- 12) INITIAL REGULATORY FLEXIBILITY ANALYSIS: This rule does not affect small businesses.

THE FULL TEXT OF THE PROPOSED AMENDMENTS BEGINS ON THE NEXT PAGE:

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TITLE 17: CONSERVATION
CHAPTER V: NATURE PRESERVES COMMISSION

PART 4010
REGISTER OF LAND AND WATER RESERVES

SUBPART A: GENERAL PROVISIONS

Section	Definitions
4010.110	The Register of Land and Water Reserves
4010.120	The Registration Agreement
4010.130	The Registration Process
4010.140	Eligible Lands and Waters
4010.150	Administration and Custody
4010.160	Reports
4010.170	

SUBPART B: MANAGEMENT AND USE

Section	Applicability of the Rules
4010.210	The Management Program
4010.220	Allowable Management
4010.230	Prohibited Management
4010.240	Allowable Uses
4010.250	Prohibited Uses
4010.260	Approval of Specific Management and Uses
4010.270	Emergency Situations
4010.280	

SUBPART C: PUBLIC NOTICE AND RECORDS

Section	Public Notice
4010.310	Recording of the Registration Agreement
4010.320	

AUTHORITY: Implementing and authorized by the Illinois Natural Areas Preservation Act (Ill. Rev. Stat. 1991, ch. 105, par. 701 et. seq.) [525 ILCS 30/1 et. seq.].

SOURCE: Adopted at ____ Ill. Reg. ____ effective ____.

SUBPART A: GENERAL PROVISIONS

Section 4010.110 Definitions

As used in this Part, the following terms have the meanings indicated, except where context requires otherwise:

"Commission" means the Illinois Nature Preserves Commission.

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"Department" means the Illinois Department of Conservation.

"Illinois Natural Areas Inventory" is a comprehensive list of natural areas of statewide significance as defined in the Illinois Natural Areas Inventory - Technical Report (White, 1978). The Illinois Natural Areas Inventory is maintained by the Department.

"Natural heritage resource" is a community of wild plants and animals, a population of a species of plant or animal, or a physical feature which was present as part of the Illinois landscape prior to settlement by immigrants from Europe and is now rare, declining, or less abundant than formerly.

"Register of Land and Water Reserves (or register)" is a list of areas registered in accordance with the Illinois Natural Areas Preservation Act (Ill. Rev. Stat. 1991, ch. 105, par. 701 et. seq.) [525 ILCS 30/1 et. seq.], together with records concerning them.

"Registration agreement" is a legal instrument that conveys conservation rights consistent with the provisions of the Real Property Conservation Rights Act (Ill. Rev. Stat. 1991, ch. 30, par. 400 et. seq.) [765 ILCS 120/0.01 et. seq.].

Section 4010.120 The Register of Land and Water Reserves

The Register of Land and Water Reserves constitutes a land and water protection program wherein lands and waters supporting significant natural heritage resources or archaeological resources are recognized and provided protection and management pursuant to this Part commensurate with the interest of the public in their long term protection and stewardship. Registered areas may be in public or private ownership. The registration may be either donative or for a consideration.

Section 4010.130 The Registration Agreement

a) The provisions of the registration agreement shall be as required by the Real Property Conservation Rights Act. It may recognize pre-existing encumbrances upon the property and may otherwise be in a form approved by the Commission and the Department.

b) The registration agreement shall be executed by the

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landowner, the Commission, and the Director of the Department.

c) The registration agreement shall provide specifically for the maintenance of significant natural features and associated ecological processes on the registered area and for conformity to this Part. The registration agreement shall contain by reference a management program as provided in Section 4010.220.

d) The registration agreement shall provide representatives of the Department and Commission reasonable access to the registered property.

Section 4010.140 The Registration Process

a) A proposed registration agreement is first executed by the landowner. It is then presented to the Commission with a statement of the natural heritage or archaeological significance of the property and citation of specific provisions of this Part under which the property qualifies for registration.

b) The Commission shall determine at a meeting if the area qualifies for the Register of Land and Water Reserves, based on its intrinsic ecological or archaeological values and if the registration agreement, including any referenced management program, is consistent with the purposes of the Illinois Natural Areas Preservation Act. If the Commission determines the area qualifies for the register, it shall approve by resolution the registration and sign the registration agreement and present it to the Director of the Department. If the Commission rejects the agreement, the Commission shall provide the landowner a written explanation of why the area was rejected.

c) Upon receipt of a registration agreement signed by the landowner and the Commission, the Director of the Department shall execute or reject it. If the Director rejects the agreement, the Department shall provide the landowner a written explanation of why the area was rejected. The Department shall cause an executed registration agreement to be recorded by the Registrar of Titles or the County Recorder of the county in which the property is located and filed with the State Archives.

Section 4010.150 Eligible Lands and Waters

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a) Eligibility of lands and waters for registration is determined by the Commission. Only land supporting natural heritage resources or archaeological resources of statewide significance shall be considered for eligibility. Developed, cultivated, or landscaped land does not qualify unless it has been committed to a program of restoration management designed to return the land to a condition supporting significant natural heritage resources.

b) Lands and waters eligible for registration include the following:

- 1) lands and waters included on the Illinois Natural Areas Inventory specifically:

Category I areas - high quality remnants of the original natural communities of Illinois

Category II areas - habitats of state listed endangered species of animals or plants

Category III areas - relict species habitat

Category IV areas - outstanding representatives of Illinois' geologic diversity

Category V areas - restorations of the original natural communities of Illinois or relocated populations of endangered or threatened species of animals or plants

Category VI areas - lands or waters supporting unusual concentrations of wildlife and other unique natural areas

Category VII areas - outstanding streams, rivers, and lakes;

- 2) habitats of state listed threatened species of animals or plants;

- 3) forests at least 100 acres in size which support breeding populations of area sensitive forest wildlife species;

- 4) grasslands at least 80 acres in size which support

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breeding populations of area sensitive grassland wildlife species;

- 5) wetlands at least 50 acres in size or an area that includes several wetlands totalling 50 acres in size;

- 6) degraded but restorable prairies at least 20 acres in size (or equivalent to Grade "C" under the Illinois Natural Areas Inventory grading criteria);

- 7) segments of degraded but restorable railroad prairie at least 1 mile in length (or equivalent to Grade "C" under Illinois Natural Areas Inventory grading criteria);

- 8) areas supporting unusual concentrations of wildlife such as nesting colonies; hibernating colonies; and migration stopover, feeding, and rest sites;

- 9) restorations of natural communities of plants and animals that existed in Illinois at the time of settlement by immigrants from Europe for which no high quality examples are known to be extant within the region;

- 10) areas supporting significant archaeological resources; and

- 11) other areas determined by the Commission and Department to be appropriate to register as land and water reserves.

c) Public entities are encouraged to dedicate as Illinois Nature Preserves, lands and waters that are classified as Category I areas - high quality remnants of the original natural communities of Illinois. Registration of Category I areas is allowed only upon unanimous approval of the members present at a meeting of the Commission.

Section 4010.160 Administration and Custody

Custody, management, and legal responsibility for a registered land and water reserve remains with the landowner. The landowner shall notify the Department of any delegation of administration or management of the registered area to another person or conveyance of the area to another owner. Representatives of the Department and Commission shall be allowed access to inspect a registered area

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upon reasonable notice to the landowner.

Section 4010.170 Reports

On or before August 31 of each year ending in 5 or 0, the landowner, or a person designated by the landowner, shall submit to the Department a report on the condition of the registered area and on management activities undertaken on the area and identifying any other significant changes or alterations of the landscape and natural conditions on the area. The report shall identify current management needs. The format of the report shall be as determined by the Department. Upon written request of the landowner, the Department shall prepare the report for a registered area if the landowner does not have a professional land management staff.

SUBPART B: MANAGEMENT AND USE

Section 4010.210 Applicability of the Rules

The registration agreement shall be the prevailing authority with respect to allowable use and management of a registered land and water reserve. A management program, as provided for in Section 4010.220, may allow for deviations from this Part if the deviations do not threaten the natural features or natural quality of the area. Deviations which are necessary to accommodate existing legal encumbrances on the property may also be allowed.

Section 4010.220 The Management Program

- a) A registered area shall have a management program which shall be prepared and adopted at the time the area is registered. The management program shall be adopted and included by reference in the registration agreement. The management program must be prepared by the landowner. The Commission and Department will assist in preparing the program at the landowner's request. The management program is subject to approval of the owner, Commission, and Department. Revisions to the management program are subject to approval of the owner, Commission, and Department except that revisions to the multi-year schedule of specific management are subject to approval of the owner and Commission.
- b) The management program shall state the preservation, restoration, and management goals and objectives specific to the registered area.
- c) The management program shall include a multi-year

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schedule of specific management activities to be undertaken on the area in order to implement the other components of the management program.

- d) The management program shall include a vicinity map locating the area and a detailed map showing features of the area.
- e) The management program shall emphasize preservation and enhancement of the natural heritage resources which qualified the property for inclusion on the register.
- f) The format of the statement of preservation, restoration, and management goals and objectives and the management schedule and map shall be as specified by the Commission.
- g) Requests for approval of specific management activities pursuant to Section 4010.270 will be considered in the context of the management program.
- h) The management program may include a wildlife management plan, fisheries management plan, or forest management plan provided that the plans are consistent with the Illinois Natural Areas Preservation Act as determined by the Commission.

Section 4010.230 Allowable Management

- a) Management activities allowed on Illinois Nature Preserves under the Rules for Management of Illinois Nature Preserves, Sections 4000.415 through 4000.475 of Title 17 of the Code, are allowed on registered land and water reserves.
- b) Management that benefits or enhances populations of federally or state listed threatened or endangered species or that restores the quality or extent of natural communities present on registered areas through the removal of exotic species (species that are not native to Illinois) or invasive species (native species which, in the absence of natural disturbance regimes, multiply to a point where they threaten the persistence of the managed native species) and promotion of conservative species (native species with highly specific habitat requirements, species limited in their occurrence to high quality natural communities, or species requiring large

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tracts of habitat to successfully reproduce), is allowed if not specifically prohibited in Section 4010.240.

- c) Management for the purpose of restoring to natural conditions areas that have been historically farmed, landscaped, paved, graded, grazed, drained, or otherwise substantially disturbed by human activity is allowed if the restoration does not jeopardize federally or state listed threatened or endangered species.
- d) Management may be undertaken on a registered natural area only by or under direction of, or with the permission of, the landowner.

Section 4010.240 Prohibited Management

- a) Plowing, cultivating, paving, or grading of areas supporting natural vegetation or a natural community (a plant and animal assemblage that existed in Illinois at the time of settlement by immigrants from Europe) is prohibited in registered land and water reserves.
- b) Altering of natural water levels is prohibited in registered areas. Water levels which have been artificially altered may be changed if such change is identified in the management program as being essential for the maintenance and restoration of natural or desired conditions.

- c) Species-specific management in favor of common species (a native species of animal or plant with very general habitat requirements that occurs in a broad range of disturbed and undisturbed habitats) is prohibited unless part of a wildlife management plan or as part of the management program, if it does not include activities prohibited in Section 4010.240(a) or (b), or Section 4010.260(a).

Section 4010.250 Allowable Uses

- a) Uses allowable on registered land and water reserves include hiking, bird watching, nature observation and study, scientific research, canoeing, hunting, trapping, fishing, and photography. Other activities determined by the Commission to be consistent with the Illinois Natural Areas Preservation Act may also be allowed.
- b) Picnicking and primitive camping may be allowed in

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designated areas if provided for in the Management Program or if approved pursuant to Section 4010.270.

- c) Cross-country skiing, horseback riding, and bicycling are allowed on registered areas only on designated trails and if provided for in the management program or if approved pursuant to Section 4010.270.
- d) Operation of off-road vehicles and snowmobiles is allowed only on pre-existing designated surfaced thoroughfares, and if provided for in the management program or if approved pursuant to Section 4010.270.
- e) The landowner may close the registered area to public use or restrict its use, including prohibition of uses allowed under this Section.

Section 4010.260 Prohibited Uses

- a) No living or dead plant or animal materials, or inorganic material including soils, minerals, or water, may be removed from a registered area except as may be provided in the management program or an approved wildlife management plan or forest management plan or for the purposes of scientific research approved by the landowner, consistent with the management program and in consultation with Commission staff.
- b) Federally or state listed threatened or endangered species may not be taken or otherwise harassed on registered areas, except as part of a federal or state approved recovery program, approved research project, or approved management program. No activity allowed as part of the management program or an approved wildlife management plan or forest management plan may jeopardize federally or state listed endangered or threatened species.
- c) Cutting of native trees greater than 4 inches in diameter breast height is not allowed on registered areas except for the purposes of managing or restoring natural communities or populations of threatened or endangered species, or as approved in the management program, or as part of a forest management plan or a wildlife management plan established in accordance with Section 4010.220(b), provided the plan will not jeopardize threatened or endangered species.
- d) Livestock grazing is not allowed on registered areas unless it is provided for in the management program. Stocking rates, season, and duration must be specified

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and justified in the management program.

- e) Mineral exploration, mining or other mineral extraction, or earth moving is not allowed on registered areas unless mineral rights are excluded from the registration agreement or moving or removal of the material is part of a restoration plan included in the management program.

Section 4010.270 Approval of Specific Management and Uses

Management and uses not otherwise allowed by this Part may be specifically approved by the Department and the Commission where the management or use is consistent with the management program or for the purposes of restoring a high quality natural community (a plant and animal assemblage that existed in Illinois at the time of settlement by immigrants from Europe), enhancing populations of threatened or endangered species, or enhancing the opportunity for scientific research.

Section 4010.280 Emergency Situations

Actions not otherwise allowed by this Part that are immediately necessary to prevent or alleviate injury to persons or property may be undertaken by or under the direction and authority of the landowner, the Department, or the Commission. The landowner and Department shall be notified within 24 hours of action taken under this provision.

SUBPART C: PUBLIC NOTICE AND RECORDS

Section 4010.310 Public Notice

- a) The Department shall, at least biennially, publish a list of registered land and water reserves indicating their locations and sizes.

- b) Before any agency or entity of state or local government may undertake an action that will disrupt natural vegetation or natural communities on a registered area, there must be a finding by the Commission at a meeting and by the Department that the action is in the public interest.

Section 4010.320 Recording of the Registration Agreement

The Department shall cause the registration agreement to be recorded by the Registrar of Titles or the County Recorder for the county in which the registered area occurs. The recorded registration agreement shall be filed by the Department with the State Archives.

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NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Illinois Occupational Therapy Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1315
- 3) Section Numbers:

Proposed Action:

1350.90	Repeal
1350.100	Amendment
1315.110	Amendment
1315.120	Amendment
1315.130	Amendment
1315.140	Amendment
1315.150	Amendment
1315.160	Amendment
1315.163	New Section
1315.170	Amendment
1315.180	Repeal
1315.200	Amendment

- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 111, pars. 3704, 3706-3709, 3711-3713, 3716 and 3718 [225 ILCS 75/4, 6-9, 11-13, 16 and 18].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking brings the rules for licensure of occupational therapists and occupational therapy assistants in line with the sunset rewrite of the Illinois Occupational Therapy Practice Act, which became effective January 1, 1994.

An outdated grandfather Section was repealed as was a Section pertaining to the conduct of hearings. The information on hearings is now contained in the Act.

To answer frequently asked questions about what services, under what circumstances, may be performed by an occupational therapy assistant, a Section on "supervision" was added to the rules. This new Section establishes that a certified occupational therapy assistant shall practice only under the supervision of a registered occupational therapist. Supervision shall be provided in varying patterns as determined by the demands of the areas of patient/client service and the competency of the individual assistant. Such supervision shall be structured according to the assistant's qualifications, position, level of preparation, depth of experience and the environment within which he/she functions. The supervisor(s) shall be responsible for the standard of work performed by the assistant and shall have knowledge of the patients/clients and the problems being discussed. A minimum guideline of formal on-site supervision

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is established as 5 percent of the assistant's work hours.

Additional information will be required from persons seeking licensure. This includes a complete work history since graduation from an occupational therapy program or completion of education as an occupational therapy assistant. Also required is information pertaining to licensure of the applicant in other jurisdictions, including whether the file on the applicant contains any record of disciplinary actions taken or pending.

Some fees are changed to bring them in line with similar fees for other professions. The fee for a certification of a license is raised to \$20 from \$10. The fee for a wall certificate showing licensure is changed from \$10 to the actual cost of producing the certificate. The fee for a change of name or address on the licensee's record, other than during renewal, is raised to \$20 from \$10.

Two alternatives are added for persons seeking to restore licenses that have expired or have been placed on inactive status for more than 5 years. They include: (1) Verification of successful completion of the Certification Examination of the American Occupational Therapy Association for licensure as a registered occupational therapist or certified occupational therapy assistant within the last 5 years prior to applying for restoration and (2) Evidence of recent attendance at educational programs in occupational therapy, including attendance at college level courses, professionally oriented continuing education classes, special seminars, or any other similar program, or evidence of recent related work experience to show that the applicant has maintained competence in his/her field.

Various grammar, style and form changes also are made.

6) Will these proposed amendments replace emergency amendments currently in effect?

No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

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11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested Persons may submit written comments and views to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800 Fax #: 217/782-7645

All comments received within 30 days of this issue of the Illinois Register will be considered. The comments of interested persons who submit a request to comment within 14 days of this issue will be considered if received within 30 days of such request.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Health care providers employing occupational therapists or occupational therapy assistants.

B) Reporting, bookkeeping or other procedures required for compliance: It will be the responsibility of the occupational therapy assistant to maintain on file at the job site signed documentation reflecting supervision activities.

D) Types of professional skills necessary for compliance: Occupational therapy skills are necessary for licensure.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1315
 ILLINOIS OCCUPATIONAL THERAPY PRACTICE ACT

Section	Application for Licensure Under Section 14 of the Act <u>(Repealed)</u>
1315.90	Approved Programs
1315.100	Application for Licensure
1315.110	Examination
1315.120	Fees for the Administration of the Act
1315.130	Renewal
1315.140	Endorsement
1315.150	Restoration
1315.160	Supervision
1315.163	Professional Conduct
1315.165	Advertising
1315.170	Conduct of Hearings <u>(Repealed)</u>
1315.180	Granting Variances
1315.200	

AUTHORITY: Implementing the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 3701 through 3737) [225 ILCS 75] and authorized by Section 60(7) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 60(7)) [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 8 Ill. Reg. 676, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 16455, effective August 38, 1984; recodified from Chapter I, 68 Ill. Adm. Code 315 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1315 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2940; amended at 18 Reg. _____ effective _____.

Section 1315.90 Application for Licensure Under Section 14 of the Act (Repealed)

- a) ~~Those persons seeking licensure as a registered occupational therapist or a certified occupational therapy assistant under Section 14 of the Act (Illinois Occupational Therapy Practice Act, Ill. Rev. Stat. 1983, ch. 111, par. 3701 et seq.) shall file an application with the Department, on forms supplied by the~~

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~~Department, along with the following:~~

- 1) ~~Proof that the applicant was registered as an occupational therapist or certified as an occupational therapy assistant by the American Occupational Therapy Association on or before January 1, 1984; and~~
- 2) ~~The required fee;~~
- b) ~~To be eligible for licensure under Section 14 of the Act, applications must be received by the Department postmarked no later than June 30, 1984.~~

(Source: Repealed at 18 Ill. Reg. _____, effective _____)

Section 1315.100 Approved Programs

- a) The Department of Professional Regulation (the Department) shall approve a program of occupational therapy education as reputable and in good standing if it meets the following minimum criteria:

- 1) ~~Is from The~~ an institution is legally recognized and authorized by the jurisdiction in which it is located to confer either a baccalaureate degree in occupational therapy, or its equivalent, or an associate degree in occupational therapy, or its equivalent.
- 2) Has a faculty which ~~that~~ consists of a sufficient number of full-time instructors to ~~make certain that the~~ ensure educational obligations to the student are fulfilled. The faculty must have demonstrated competence in their area(s) of teaching as evidenced by appropriate degrees from reputable professional colleges or institutions.
- 3) Has a ~~The program~~ curriculum ~~shall be~~ of sufficient content for the achievement of entry level competencies, including ~~and shall include~~ liberal and technical education. Documentation shall include instructional objectives, outlines, methods and learning experiences.
- 4) Accepts only those persons who have graduated from an accredited high school or its equivalent.
- 5) Maintains permanent student records that summarize the credentials for admission, attendance, grades, and other records of performance.

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- 6) Maintains or is formally affiliated with a field work education center ~~which~~ that provides a sufficient number and variety of occupational therapy cases for the student's practical instruction.
- 7) Publishes the requirements for graduation and degrees in a regularly issued catalog.
- b) In determining whether a program should be approved, the Department shall take into consideration, but not be bound by, accreditation or approval by the American Occupational Therapy Association.
- c) The Department has determined that all occupational therapy programs accredited or approved by the American Occupational Therapy Association as of ~~January 1, 1984~~, January 1, 1994, meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.110 Application for Licensure

- a) Any person seeking licensure as a registered occupational therapist shall file an application with the Department, on forms supplied by the Department, along with the following:
 - 1) Certification that the applicant has completed an approved program of occupational therapy as set forth in Section 1315.100;
 - 2) Verification of the successful completion of the Certification Examination for Occupational Therapist, Registered, which shall be received directly from the designated testing service; ~~and~~
 - 3) A complete work history since graduation from an occupational therapy program;
 - 4) The required fee set forth in Section 1315.130(a) of this Part, and
 - 5) Certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and is currently licensed, if applicable, stating:
 - A) The time during which the applicant was licensed in that

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jurisdiction, including the date of the original issuance of the license;

- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) Any person seeking licensure as a certified occupational therapy assistant shall file an application with the Department, on forms supplied by the Department, along with the following:
 - 1) Certification that the applicant has completed an approved program of occupational therapy;
 - 2) Verification of the successful completion of the Certification Examination for Occupational Therapy Assistants, which shall be received directly from the designated testing service; ~~and~~
 - 3) A complete work history since completion of education as an occupational therapy assistant;
 - 4) The required fee set forth in Section 1315.130(a) of this Part; and
 - 5) Certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and is currently licensed, if applicable, stating:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) A description of the examination in that jurisdiction; and
 - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Illinois Occupational Therapy Board (the Board) because of lack of information, discrepancies or conflicts in information given or a need for

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clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.
- d) An applicant for licensure whose examination scores are more than 5 years old and who is not actively practicing as an occupational therapist or occupational therapy assistant shall be required to successfully complete the examination before the Department may issue a license.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.120 Examination

- a) The examination for licensure as a registered occupational therapist shall be the certification examination for the American Occupational Therapy Association Certification Board (Certification Examination for Occupational Therapist, Registered). ~~The examination shall cover the following areas of occupational therapy services:~~

- 1) ~~Motor Performance;~~
- 2) ~~Sensory Functioning;~~
- 3) ~~Cognitive Performance;~~
- 4) ~~Emotional/Social Performance;~~
- 5) ~~Occupational Performance and Life Style; and~~
- 6) ~~Program Support Services and Professional Development.~~

- b) The examination for licensure as a certified occupational therapy assistant shall be the certification examination for the American Occupational Therapy Association Certification Board (Certification Examination for Occupational Therapy Assistants). ~~The examination covers the following areas of occupational therapy services:~~

- 1) ~~Self-care skills;~~
- 2) ~~Work skills;~~
- 3) ~~Play/Leisure Skills;~~
- 4) ~~Motor Functioning;~~
- 5) ~~Social Functioning;~~

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- 6) ~~Cognitive Functioning;~~
- 7) ~~Psychological Functioning;~~
- 8) ~~Life Space;~~
- 9) ~~Program Support.~~

- c) ~~The examination shall be given two times a year.~~ Candidates shall make application for the examination, and pay the appropriate examination fee, directly to the designated testing service.
- d) Unsuccessful candidates may retake the examination as many times as they wish.
- e) Passage of the certification examination according to testing service standards shall be required for licensure.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.130 Fees for the Administration of the Act

The following fees shall be paid to the Department for the functions performed by the Department under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 3701 through 3737) [225 ILCS 75] ~~this (the Act)~~ and shall be non-refundable:

- a) The fee for application and for an original license as a registered occupational therapist or certified occupational therapy assistant is \$25. In addition, applicants may be required to pay, either to the Department or to the designated testing service, a fee for the cost of providing the examination.
- b) The fee for the renewal of a license as a registered occupational therapist is \$20 per year;
- c) The fee for the renewal of a license as a certified occupational therapy assistant is \$10 per year;
- d) The fee for a license as a registered occupational therapist or a certified occupational therapy assistant by endorsement from another jurisdiction is \$50;
- e) The fee for restoration of a license ~~which~~ that has been placed on inactive status is the current renewal fee;

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- f) The fee for restoration of a license other than from inactive status is \$10 plus payment of all lapsed renewal fees, not to exceed \$110;
- g) The fee for a certification of a ~~licensee's record~~ license is ~~\$20~~ \$10;
- i) The fee for a wall certificate showing licensure is the actual cost of producing the certificate ~~is \$40~~;
- j) The fee for a change of name or address on a licensee's record, other than during renewal, is ~~\$20~~ \$40;
- k) The fee for a roster of licensees is the actual cost of producing ~~such a~~ the roster [(total number of registrants in list required) times the Multiplier (cost of paper), plus Fixed Costs (such as personnel handling and forms)].

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.140 Renewal

- a) Every license issued under the Act shall expire on December 31 of each odd numbered year. The holder of the license may renew such license during the month preceding the expiration date ~~thereof~~ by paying the required fee.
- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

- c) Practicing on an expired license shall be considered unlicensed practice.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.150 Endorsement

- a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Department, along with the following: together with a certification from the licensing authority of the jurisdiction stating:

- 4) The time during which the applicant was licensed in that jurisdiction;
- 2) Whether the file on the applicant contains any record of any

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disciplinary actions taken or pending;

- 3) A brief description of the examination taken and the grades received;
- 1) Certification that the applicant has completed an approved program of occupational therapy;
- 2) Verification of the successful completion of the Certification Examination for Occupational Therapist, Registered or Certification Examination for Occupational Therapy Assistants, which shall be received directly from the designated testing service;
- 3) A complete work history since completion of occupational therapy training;
- 4) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the examination in that jurisdiction, and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) The applicant may be required to appear for an oral interview:

- 1) To clarify or explain information contained in the submitted documentation;
- 2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State.

- b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in

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information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevances or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.160 Restoration

- a) A person seeking restoration of his a license which has expired or been placed on inactive status for more than 5 years shall file an application with the Department, on forms supplied by the Department, along with the required fees specified in Section 1315.130 of this Part. The applicant shall also submit either one of the following:

- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;
- 2) An affidavit attesting to military service as provided in Section 11 of the Act (no fee is required when restoring from a period of military service if application is made within 2 years of termination of ~~such~~ the service); ~~or~~

- 3) Verification of successful completion of the Certification Examination of the American Occupational Therapy Association for licensure as a registered occupational therapist or certified occupational therapy assistant within the last 5 years prior to applying for restoration; or

- 3) Other proof acceptable to the Department of the applicant's fitness to
license restored.

- 4) Evidence of recent attendance at educational programs in occupational therapy, including attendance at college level courses, professionally oriented continuing education classes, special seminars, or any other similar program, or evidence of recent related work experience to

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show that the applicant has maintained competence in his/her field.

- b) A registrant seeking restoration of ~~his~~ a license which that has been expired for less than 5 years shall have ~~his~~ the license restored upon payment of \$10 plus all lapsed renewal fees required by Section 1315.130 of this Part.
- c) A registrant seeking restoration of ~~this~~ a license which that has been on inactive status for less than 5 years shall have ~~his~~ the license restored upon payment of the current renewal fee.

- d) When the accuracy of the submitted documentation, or the relevance or sufficiency of the course work or experience is reasonably questioned by the Department the licensee will be requested to provide such information as may be necessary and/or explain such relevance or sufficiency during an oral interview; or

- e) The applicant may be required to appear for an oral interview designed to determine the individual's current competency to practice occupational therapy.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.163 Supervision

- a) A certified occupational therapy assistant shall practice only under the supervision of a registered occupational therapist. Supervision is a process in which 2 or more persons participate in a joint effort to establish, maintain and elevate a level of performance and shall include the following criteria:

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- 1) The supervisor(s) shall possess the skill, experience or education in excess of those possessed by the assistant.
- 2) To maintain high standards of practice based on professional principles, supervision shall connote the physical presence of the supervisor(s) and the assistant at regularly scheduled supervision sessions.
- 3) Supervision shall be provided in varying patterns as determined by the demands of the areas of patient/client service and the competency of the individual assistant. Such supervision shall be structured according to the assistant's qualifications, position, level of preparation, depth of experience and the environment within which he/she functions.
- 4) The supervisor(s) shall be responsible for the standard of work performed by the assistant and shall have knowledge of the patients/clients and the problems being discussed.
- 5) A minimum guideline of formal on-site supervision is 5 percent of the assistant's work hours.
- b) Record Keeping. It is the responsibility of the occupational therapy assistant to maintain on file at the job site signed documentation reflecting supervision activities.

(Source: Added at 18 Ill. Reg. _____, effective _____)

Section 1315.170 Advertising

- a) Persons licensed to practice occupational therapy in the State of Illinois may advertise in any medium or other form of public communication in a manner which that is truthful, and which is not fraudulent, deceptive, inherently misleading or proven to be misleading in practice. Such advertising shall contain all information necessary to make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive. The form of such communication shall be designed to communicate the information contained therein to the public in a direct, dignified and readily comprehensive comprehensible manner.

- b) Information which that may be contained in such advertising shall include:

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- 1) Licensee's name, address, office hours, and telephone number;
 - 2) Schools attended;
 - 3) Announcement of the opening of, change of, or return to practice;
 - 4) Announcement of additions to or deletions from professional staff;
 - 5) Licensee's hospital affiliation(s);
 - 6) Areas of specialization, including Board certification, professional society memberships and any limitations or concentration of practice;
 - 7) Credit arrangements and/or acceptance of Medicare/Medicaid patients and credit cards;
 - 8) Foreign language ability;
 - 9) Usual and customary fees for routine professional services which must include a statement that fees may be adjusted due to complications or unforeseen circumstances;
 - 10) Description of offices in which licensee practices; [e.g., accessibility to the ~~handicapped~~ disabled, laboratory facilities on the premises, convenience of parking]; and,
 - 11) Other information about the licensee, the licensee's practice, or the types of practice in which the licensee will accept employment, which a reasonable person might regard as relevant in determining whether to seek the licensee's service.
- c) If an advertisement is communicated to the public over television or radio, it shall be prerecorded and approved for broadcast by the licensee, and a recording of the actual transmission, including videotape, shall be retained by the licensee for a period of 5 3 years.
- d) Information which may be untruthful, fraudulent, deceptive, inherently misleading, or which has proven to be misleading in practice includes that which

- 1) Contains a misrepresentation of fact or omits a material fact required

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to prevent deception;

- 2) Guarantees favorable results or creates false or unjustified expectations of favorable results;
- 3) Takes advantage of the potential client's fears, anxieties, vanities, or other emotions;
- 4) Contains testimonials and/or exaggerations pertaining to the quality of occupational therapy care;
- 5) Describes as available products or services which are not permitted by the laws of this State and/or applicable Federal laws; and,
- 6) Advertises professional services which that the licensee is not licensed to render.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

Section 1315.180 Conduct of Hearings (Repealed)

All disciplinary proceedings brought under Section 19 of the Act shall be conducted in accordance with the Department's Rules of Practice (68 Ill. Adm. Code 1110).

(Source: Repealed at 18 Ill. Reg. _____, effective _____)

Section 1315.200 Granting Variances

- a) The Director may grant variances from ~~these Rules~~ this Part in individual cases where he/she finds that:

- 1) The provision from which the variance is granted is not statutorily mandated;
- 2) No party will be injured by the granting of the variance;
- 3) The rule from which the variance is granted would in the particular case, be unreasonable or unnecessarily burdensome.

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- b) The Director shall notify the Board of the granting of ~~such~~ the variance, and the reasons therefor, at the next meeting of the Board.

(Source: Amended at 18 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Construction in Floodways of Rivers, Lakes and Streams

2) Code Citation: 92 Ill. Adm. Code 700

3) Section Numbers: Proposed Action:

700.20
700.75

Amend
New Section

4) Statutory Authority: 615 ILCS 5/23, 29a and 30

- 5) A complete description of the subjects and issues involved:
This proposed amendment will clarify how the effects of proposed levee and floodwall raises will be evaluated in those cases where the existing top of the levee or floodwall is at or above the 100-year frequency flood elevation. The Rivers, Lakes and Streams Act (the Act) (Ill. Rev. Stat. 1991, ch. 19, pars. 70, 78 and 78.1) [615 ILCS 5/23, 29a and 30] requires that levee and floodwall raises be regulated, but this Part currently is confusing as to what flood discharge should be used for analysis in that situation. This proposed amendment will eliminate that confusion.

- 6) Will these proposed amendments replace an emergency rule currently in effect? Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporation by reference?
No

- 9) Are there any proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This proposed rulemaking has no effect on local governments unless they own a levee or floodwall which they propose to raise. In that case, this rulemaking will clarify the required analysis procedure, thereby speeding the review of their application.

- 11) Information and questions regarding this amendment shall be directed to:

Mr. David R. Boyce, P.E.
Chief, Floodplain Management Section
Department of Transportation
Division of Water Resources
P. O. Box 19484
Springfield, Illinois 62794-9484
217/782-3862

DEPARTMENT OF TRANSPORTATION

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- 12) Initial Regulatory Flexibility Analysis: The proposed amendment does not effect small businesses unless they propose to raise a levee or floodwall, in which case the proposed amendment would clarify the flood discharge to be used for analysis of the proposed raise. This clarification will speed the application review process.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which begins on page _____ of this Illinois Register.

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3) Section Numbers:
- | | <u>Adopted</u> | <u>Action:</u> |
|----------|----------------|----------------|
| 240.120 | Amendment | |
| 240.160 | Amendment | |
| 240.210 | Amendment | |
| 240.220 | Repeal | |
| 240.270 | Amendment | |
| 240.280 | Amendment | |
| 240.350 | Amendment | |
| 240.870 | Amendment | |
| 240.910 | Amendment | |
| 240.1510 | Amendment | |
| 240.1520 | Amendment | |
| 240.1535 | Amendment | |
| 240.1540 | Repeal | |
| 240.1545 | Repeal | |
| 240.1590 | Amendment | |
| 240.1600 | Amendment | |
| 240.1610 | Amendment | |
| 240.1630 | Amendment | |
| 240.1920 | Amendment | |
| 240.1930 | Amendment | |
| 240.2020 | Amendment | |
| 240.2030 | Amendment | |
| 240.2040 | Amendment | |
| 240.2050 | Amendment | |
- 4) Statutory Authority: 20 ILCS 105/4.01 (4), (9), (11) and (12); 105/4.02; 105/4.03; and 105/5.02.
- 5) Effective Date of the Amendment(s): February 1, 1994
- 6) Does this rulemaking contain an automatic repeal date?
Yes ☐ No ☒
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 6, 1994
- 9) Notice of Proposal Published in Illinois Register:
September 10, 1993: 17 Ill. Reg. 14225

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

- (issue date)
- 10) Has JCAR issued a Statement of Objections to this (these) amendment(s)? No
- 11) Difference(s) between proposal and final version:
The following changes have been made subsequent to the first notice period.
- Section 240.210
- Subsection 240.210 a)1):
the comma immediately following the word "and" and immediately before the word "home" has been deleted.
- Subsection 240.210 a)2):
the word "which" immediately following the words "shopping/errands" and immediately before the word "may" has been deleted.
- Subsection 240.210 a)6):
the word "cleaning" immediately following the word "appropriate" and immediately before the word "supplies" has been deleted.
- Subsection 240.210 b):
the comma immediately following the word "transportation" and immediately before the word "to" has been deleted.
- the word "or" immediately following the word "facilities," and immediately before the word "for" has been added.
- Section 240.280
- Subsection 240.280 b)4):
the word "cleaning" immediately following the word "appropriate" and immediately before the word "supplies" has been deleted.

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

Section 240.350

Subsection 240.350 a)4(B):

the word "vendor" immediately following the word "the" and immediately before the word "to" has been deleted and the word "provider" has been added and inserted in its place.

Subsection 240.350 a)5(C):

the word "vendor" immediately following the word "the" and immediately before the word "to" has been deleted and the word "provider" has been added and inserted in its place.

Section 240.870

Subsection 240.870 c):

the subsection number indicator "3" has been deleted.

Section 240.1535

Subsection 240.1535 b)2)D):

the word "persons" has been deleted.

the word "serving" immediately before the word "as" has been deleted and the word "service" has been added and inserted in its place.

the word "workers" has been changed to the singular "worker".

the word "and" has been added immediately following the word "Section:".

Subsection 240.1535 b)2)E):

the word "have" immediately before the word "a" has been deleted and the word "having" has been added and inserted in its place.

Subsection 240.1535 b)2)F)1):

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NOTICE OF ADOPTED AMENDMENTS

the comma immediately following the word "training" and immediately before the word "or" has been deleted.

the comma immediately following the word "Section" and immediately before the word "or" has been added.

Section 240.2040

Subsection 240.2040 b)1):

the word "may" immediately following the word "which" and immediately before the word "include" has been deleted and the word "shall" has been added and inserted in its place.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any proposed amendments pending on this Part? No

15) Summary and Purpose of Amendment:

The purpose of the rulemaking is to collapse chore-housekeeping service into homemaker service in order to have one in-home service under the Community Care Program. Specific changes include incorporation of all chore-housekeeping service tasks into homemaker service component, changing the client fixed fee share rate for each unit of homemaker service to \$5.30, qualifying all direct service chore-housekeeping workers as direct service homemaker workers upon the effective date of this rulemaking and amending the allowable number of contracts in specific areas to accommodate the amending of chore-housekeeping service, only, contracts to homemaker service contracts. These changes will improve client service and expand their freedom of choice for choosing an in-home service provider and will enable the current in-home chore, only, providers the potential to expand their client caseloads.

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, Illinois 62701-1789
(217) 782-4842

The full text of the Adopted Amendment(s) begins on the next page:

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240
COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
240.100
240.110
240.120
240.130
240.140
240.150
240.160

Community Care Program
Department Prerogative
Services Provided
Maintenance of Effort
Program Limitations
Completed Applications Prior to August 1, 1982 (Repealed)
Definitions

SUBPART B: SERVICE DEFINITIONS

Section
240.210
240.220
240.230
240.240
240.250
240.260
240.270
240.280

Homemaker Service
Chore-Housekeeping Service (Repealed)
Adult Day Care Service
Information and Referral
Demonstration/Research Projects
Case Management Service
Alternative Provider
Individual ~~Chore Housekeeping~~-Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section
240.300
240.310
240.320
240.330
240.340
240.350
240.360
240.370

Applicant/Client Rights and Responsibilities
Right to Apply
Nondiscrimination
Freedom of Choice
Confidentiality/Safeguarding of Case Information
Applicant/Client/Authorized Representative Cooperation
Reporting Changes
Voluntary Repayment

SUBPART D: APPEALS

Section
240.400
240.405

Appeals and Fair Hearings
Representation

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240.410	When the Appeal May Be Filed
240.415	What May Be Appealed
240.420	Group Appeals
240.425	Informal Review
240.430	Informal Review Findings
240.435	Withdrawing an Appeal
240.440	Examining Department Records
240.445	Hearing Officer
240.450	The Hearing
240.451	Conduct of Hearings
240.455	Continuance of the Hearing
240.460	Postponement
240.465	Dismissal Due to Non-Appealance
240.470	Rescheduling the Appeal Hearing
240.475	Recommendations of Hearing Officer
240.480	The Appeal Decision
240.485	Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

Section	Application for Community Care Program
240.510	Who May Make Application
240.520	Date of Application
240.530	Statement to be Included on Application
240.540	

SUBPART F: ELIGIBILITY

Section	Eligibility Requirements
240.600	Establishing Eligibility
240.610	Home Visit
240.620	Determination of Eligibility
240.630	Eligibility Decision
240.640	Continuing Eligibility
240.650	Frequency of Redeterminations
240.655	Extension of Time Limit
240.660	

SUBPART G: NON-FINANCIAL REQUIREMENTS

Section	Age
240.710	Determination of Need
240.715	Clients Prior to Effective Date of This Section
240.720	(Repealed)
240.725	Clients After Effective Date of This Section (Repealed)

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AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging [20 ILCS 105/4.01 (1) and 4.02].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg.

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43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 1200, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 1, 1990; 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 2838 effective, February 1, 1991 for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendments at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendments at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendments suspended at 16 Ill. Reg. 1744; emergency amendments at 16 Ill. Reg. 2630 effective February 1, 1992, for a maximum of 150 days; emergency amendments at 16 Ill. Reg. 2943; emergency amendments at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendments at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendments at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. _____, effective February 1, 1994.

NOTE: Bold faced type denotes emergency amendments.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 240.120 Services Provided

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- a) The Community Care Program (CCP) provides necessary services designed to prevent premature and unnecessary institutionalization of individuals determined eligible to receive such services.
- b) Services provided through the CCP are: homemaker, ~~chore housekeeping~~, adult day care, information and referral, case management, individual ~~chore housekeeping~~ provider (closed caseload), alternative provider and services made available through special demonstration/research projects.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.160 Definitions

"Adequate plan of care" means a plan of care which provides the minimum services needed to protect the health, safety and welfare of a client.

"Adjusted rate" means a rate other than the established fixed rate of reimbursement.

"Administrative corrections" means allowable revisions to a proposal permitted and/or performed by the Department in cases of apparent clerical mistakes and in cases where the applicant/Department has reason to believe a mistake may have been made and verification from the applicant has been provided. Such actions shall be taken prior to award.

"Administrative costs" means those allowable costs related to the management and organizational maintenance of the provider~~provider~~.

"Adverse action" means the denial of CCP service; a reduction in dollars in the monthly cost of care according to the CCP Client Agreement - Plan of Care; a change in service type ~~(e.g., a change from chore housekeeping to homemaker service)~~ which could increase the client's incurred monthly expense for care; or the termination from CCP service.

"Allegations" means unsubstantiated accusations or statements.

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"Allowable costs" means those cost categories, as delineated in Section 240.2050, which will be considered in setting a fixed rate.

"Allowable maximums" means the highest authorized allocation available for services per month based upon Determination of Need scores.

"Appellant" means the applicant/client/authorized representative initiating an appeal as a result of Department action or inaction.

"Assistance with task" means giving aid or support in the performance of a task.

"Assistive device" means crutches, walker, wheel chair, hearing aid, etc.

"Authorized representative" means an agent designated, verbally or in writing, by the applicant/client to be his/her representative, or the applicant's/client's guardian. In the event that an applicant/client is unable to physically write his/her signature, the CCU may sign for the applicant/client at the applicant's/client's verbal request.

"Authorized representative of the provider~~provider~~" means an owner, officer or employee of the provider~~provider~~ agency who has the authority to commit the agency to a financial and/or contractual responsibility.

"Authorized provider~~provider~~" means a provider~~provider~~ who holds a valid contract with the Department to provide Community Care Program (CCP) services.

"Available resources" means assistance provided to an applicant/client by family/friend(s), church, community, etc.

"Best interest", as used in Section 240.1630, means the determined needs of the client population are being met.

"Burial merchandise" means gravesites, crypts, mausoleums, urns, caskets, vaults, gravemarkers or other repositories for the remains of deceased persons, shrouds, etc.

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"Calendar year" means from January 1 through December 31.

"Capable person" means a person who is qualified to perform the functions required.

"CCU in good standing" (See: Contractor in good standing)

~~"Core housekeeping" means core and housekeeping service.~~

"Close-out review" means a review performed at the close of the period of time allowed for correction of findings of non-compliance to determine if those corrections have been made and that the newly drawn review sample of client/~~provider~~ files reflects on-going compliance.

"Closed caseload" means a caseload restricted to those clients already receiving service and refers only to individual ~~core housekeeping~~ providers; no new clients shall be accepted and current clients who discontinue service for any reason will not be reinstated into this caseload.

"Community-based services" means services provided in a congregate setting in a client's community (i.e., adult day care).

"Comparable human service program" means a program that offers services that are similar to CCP services (e.g., home health aide, maid service).

"Compliance" means adherence to the CCP rules, policy and procedures and the contract with the Department, and all applicable federal, state and local laws/rules/ordinances.

"Components" means specified parts of the service as defined in the applicable Section.

"Confused and disoriented" means unable to clearly and accurately differentiate as to time, person and/or place.

"Continuous eligibility" means that the client has met eligibility requirements each time a subsequent redetermination was administered.

"Contract" means purchase of service agreement.

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"Contractor in good standing" means a CCP contractor who is currently in compliance or within the permitted time frame allotted for remedy to come into compliance with the Department's rules and contract.

"Control date" means a starting point for purposes of calculating a time frame; the count begins the next work or calendar day.

"Cost report" means a report of all categorized allowable costs to a ~~provider~~ which are directly associated with services purchased by the Department for its clients in categories as defined in Section 240.2050. The ~~provider~~ shall use the Direct Service Worker Cost Certification and the Detailed Cost Certification forms.

"Daily Census maximum" means the total square footage of adult day care client-allotted space divided by 40 sq.ft. equals the daily maximum number of clients that may be served in the adult day care facility.

"Department" means the Illinois Department on Aging.

"Director" means the Director of the Illinois Department on Aging.

"Discontinuance" means the cessation of Community Care Program services provided to a client for non-payment of incurred expense for care.

"Documentation" means tangible documents or supporting references or records used to record client contact, determine eligibility or substantiate adherence to rules.

"Documenting" means making written entries on the Case Record Recording Sheet regarding contact with an applicant/client; and/or the viewing or receiving of a document to be placed in applicant/client/worker files to substantiate adherence to rules.

"Emergency" means a sudden unexpected occurrence demanding immediate action (e.g., client illness, illness/death of a member of the client's family, etc.).

"Errands" means performance of services outside the home such as essential shopping, picking up medications, and

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essential business needs as indicated in the plan of care.

"Escort" means accompanying those clients who are dependent on personal physical assistance to enable them to reach and use community resources in order to ensure their access to local services and to allow them to maintain independent living as required by the plan of care.

"Essential" means basic, indispensable or necessary.

"Exit Conference" means the meeting at the Illinois Department on Aging between representatives of the Department and the director, or his/her designee, of the reviewed agency to resolve the agency's objection to the findings of the Compliance Review Report. Such conferences shall be called when the findings evidence serious client-related concerns (e.g., Type I findings).

"Face-to-face" means direct communication while physically in the presence of another person or persons.

"Face-to-face review" means an informal review (see Section 240.425) conducted in the appeal process by the Department in the home of an appellant with the applicant/client (and appellant, if appellant is other than the applicant/client) present. (A hearing is conducted by a Hearing Officer - see Section 240.450.)

"FUTA" means the Federal Unemployment Tax Act.

"Fiscally sound agency" means a CCU or provider~~vendor~~ which has on file at the Department documentation which supports that the CCU or provider~~vendor~~ has adequate financial resources to perform the terms of the contract (e.g., a line of credit from a financial institution).

"Fraudulent information" means purposely erroneous or untruthful information.

"Geographic area" means a physical area (e.g., county) of the State within which a contractor is authorized to provide services to Community Care Program clients.

"Historical costs" means the total allowable costs incurred for all programs the provider~~vendor~~ provided for the previous reporting year, which are presented via certified

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report by the provider~~vendor~~.

"Home maintenance and repairs" means those non-routine tasks, excluding any work requiring a ladder or requiring specialized skills on the part of the worker, necessary to maintain a safe and healthful environment for the client as required by the plan of care (e.g., defrosting the refrigerator; cleaning the oven; dusting walls and woodwork; cleaning closets, cupboards and insides of windows; changing filters on and cleaning humidifiers; clearing hazards from outside steps and sidewalks if transportation and/or escort is required by the plan of care; replacing light bulbs).

"Imminent" means likely to occur (e.g., injury or institutionalization).

"Incomplete proposal" means the written offer to the Request for Proposal (e.g., attachments, appendices) which fails to include all requirements as stated in the Request for Proposal.

"Incurred monthly expense" means the client's share of the cost of care for CCP services provided during a previous monthly period.

"Informal review" means the act of determining the facts relating to an appeal in an informal manner by the Department (see Section 240.425).

"Informality" means an irregularity which is a matter of form or variation from the exact requirement of the Request for Proposal, the correction or waiver of which would not be prejudicial to other applicants (e.g., failure to return number of copies of signed proposals as required by the Request for Proposal).

"In-home services" means services provided in the client's residence with the client present or on behalf of the client (e.g., homemaker, ~~chore housekeeping~~ services).

"Intermediate Care Facility (ICF)" means a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long term illnesses or disabilities which may have reached a relatively stable plateau (89 Ill.

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Adm. Code 101.20).

"Licensed Practical Nurse (LPN)" means a nurse who has graduated from a formally approved program of practical nursing education and has been licensed by the appropriate state authority.

"Mandated time period" means the time frame required by pertinent rule.

"M.D." means medical doctor who is registered in the State of Illinois.

"Memorandum of Understanding" means a written document, executed by the applicant/client/authorized representative, CCU representative and ~~provider~~ representative, in which all parties agree to cooperate, and in which activities are specified which must be fulfilled by each party thereto.

"Observing client's functioning" means watching for any change in the client's needs which could indicate that a redetermination of eligibility and/or a revision in the Client Agreement - Plan of Care is necessary (e.g., client is experiencing increasing difficulty in walking, client's becoming increasingly confused and disoriented, client's daughter is no longer available to prepare meals for the client, etc.).

"Occupancy costs" means the costs of depreciation, amortization of leasehold improvements, rent, property taxes, interest and other related costs.

"On-Notice" means the Department sanction imposed on a ~~provider~~ or CCU requiring that ~~provider~~ or CCU to bring specified service(s) or requirements into compliance.

"Parent organization" means an entity to which the contractual party is a subsidiary.

"Performance of task" means to carry out an action, function or process.

"Period of stay" means a period of time during which implementation of a contract action is temporarily delayed.

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"Planning and Service Area (PSA)" means a designated geographic area.

"Post-screening" means screening performed after a client has entered a nursing home due to an emergency situation or oversight without prescreening.

"Potentially" means having the capability of occurring but not yet in existence (e.g., deterioration in the client's condition).

"Program support costs" means those allowable costs not included as direct service or administrative costs.

"Proposal" means the written offer made by an applicant in response to Department Request for Proposal.

"Provider community experience" means documentation of having provided a service(s) within the community in which the provider has applied to provide services.

"Provider in good standing" (see Contractor in good standing).

"Providers" means those service providers with whom the Department does business through contracts on a reimbursement basis for units of service delivery to specified clients.

"Reasonable" means using and showing reason or sound judgement, sensible, not excessive.

"Reasonable and diligent effort" means perseverance on the part of the applicant/client in his/her attempt to dispose of the asset (e.g., as evidenced by copies of the advertisement for sale of the asset).

"Registered Nurse (RN)" means a nurse who has graduated from a formal program of nursing education and has been licensed by the appropriate state authority.

"Reinstatement" means the resumption of services, within an established time frame, at the same level provided prior to a suspension/discontinuance of the services.

"Related parties" means any other entities having a legal or

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contractual relationship with the contractual party.

"Request for Proposal (RFP)" means a form of invitation to bid which the Department uses to obtain homemaker, ~~home-keeping,~~ adult day care services and demonstration/research projects under the Community Care Program (CCP). The RFP explains the purpose of the invitation to bid, outlines the scope of the work and solicits proposals from provider~~provider~~ agencies for the funding of services undertaken by the Department.

"Responsible person" means a capable person who does not appear to be disoriented or confused and is presumed to be acting in the best interest of another individual.

"Rotation plan" means a Department approved plan for the equitable distribution of clients to providers~~providers~~ (used only if client does not indicate a choice of providers~~providers~~).

"Routine procedures" means procedures performed in a hospital which result in no perceptible change in the client's physical/mental health needs (e.g., tests, blood work-ups, x-rays, dialysis, etc.).

"Service area" means any area in which a provider~~provider~~ has been awarded a contract to provide CCP services.

"Skilled Nursing Facility (SNF)" means a group care facility licensed by the Illinois Department of Public Health which provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during reoccurrences of symptoms in long-term illness (89 Ill. Adm. Code 101.20).

"Special diet" means a dietary restriction based upon the health and safety needs of the client and prescribed by a physician (e.g., sodium free, fat, protein, diabetic, etc.); whereas a modified diet relates to a diet containing easy to chew foods. A modified diet may be part of a specialized diet.

"State fiscal year" means from July 1 through June 30.

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"Suspension" means the temporary cessation of the provision of Community Care Program services provided to a client.

"Suspension of referrals" means closed intake of new clients to the specific contractor.

"Termination" means the permanent cessation of the provision of Community Care Program services and eligibility of services.

"Threat" means the existence of circumstances that indicate the intent of an individual or group to destroy the property of or to injure or punish another individual or group. Such circumstances might be the display of a weapon at an adult day care center.

"Too highly impaired applicant/client" means an applicant/client who needs 24 hour a day care, for whom CCP cannot develop a plan of care to protect his/her physical, mental and environmental needs and who does not have sufficient outside support from family, friends, church, et.al., to provide for those needs (as determined by Part B - Unmet Need for Care - of the Community Care Program Determination of Need). (Refer to Section 240.715.)

"Unallowable costs" means those costs which will not be considered in determining the fixed rate or in meeting the required minimum direct service expenditure.

"Unit of service" means a measured length of service, such as an hour, a day, a visit, a one-way trip, or some other measurable service component that will enable the Department to determine the amount of service provided individually or in aggregate to or on behalf of a client.

"Validation of provider~~provider~~ community experience" means the documentation of letters from community agencies attesting to experience with the provider~~provider~~ within the community.

"Validity of client billing" means the accuracy of the billing and documentation thereof.

"~~Vendor community experience~~" means documentation of having provided a service(s) within the community in which the ~~vendor~~ has applied to provide CCP services.

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"Vendor in good standing" (See: Contractor in good standing)

"Vendors" means those service providers with whom the Department does business through contracts on a reimbursable basis for units of service delivery to specified clients.

"Work days" means Monday through Friday at a minimum, excluding provider/vendor designated holidays.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART B: SERVICE DEFINITIONS

Section 240.210 Homemaker Service

Homemaker service is defined as general non-medical support by supervised homemakers who have received specialized training in the provision of homemaker services. The purpose of providing homemaker service is to maintain, strengthen and safeguard the functioning of individuals in their own homes when no responsible and capable person is available for this purpose, in accordance with the authorized plan of care.

a) Service Components

a) Specific service components of homemaker service shall include the following:

- 1) Teaching/performing of meal planning and preparation; routine housekeeping skills/tasks (e.g., making and changing beds, dusting, washing dishes, vacuuming, cleaning and waxing floors, keeping the kitchen and bathroom clean and laundering the client's linens and clothing); shopping skills/tasks; and home maintenance and repairs.
- 1) Teaching of meal planning and preparation, housekeeping skills, shopping skills and home maintenance;
- 2) Performing/assisting with essential shopping/errands, which may include handling the client's money (proper accounting to the client

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of money handled and provision of receipts are required). These tasks shall be:

Aa) performed as specifically required by the plan of care; and,

Bb) monitored by the homemaker supervisor.

2) Performance of or assistance with essential shopping errands, which may include handling the client's money. Proper accounting to the client of money handled and provision of receipts are required. These tasks shall be performed as specifically required by the plan of care and shall be monitored by the homemaker supervisor.

3) Assisting with self-administered medication which shall be limited to:

Aa) reminding the client to take his/her medications;

Bb) reading instructions for utilization;

Cc) unpacking medication containers; and,

Dd) providing the proper liquid and utensil with which to take medication.

4) Assisting with self administered medication limited to reminding the client to take his/her medications, reading instructions for medication, unpacking medication containers, providing the proper liquid and utensil with which to take medications.

4) Assisting with following a written special diet plan and reinforcement of diet maintenance (can only be provided under the direction of a physician and as required by the plan of care). 17

5) Supervising and assisting with the performance of activities of daily living in subjects with Alzheimer's and related dementias specified in subsection c-4 below.

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56) Observing client's functioning and reporting to the supervisor¹⁷

57) Performing/assisting with personal care tasks (e.g., shaving¹⁷ hair shampooing and combing¹⁷ bathing and sponge bath, shower bath or tub bath¹⁷ dressing¹⁷ brushing and cleaning teeth or dentures and preparation of appropriate cleaning supplies ~~therefore~~¹⁷ transferring client¹⁷ and assisting client with range of motion)¹⁷

6) Performance of chore housekeeping tasks as described in 240.220 ~~are considered appropriate only when provided in conjunction with one or more of the service components listed in subsections (1) through (7)~~¹⁷

79) Escort to medical facilities, errands, shopping and individual business as specified in the plan of care.

b) Homemaker service may include transportation to medical facilities, or for essential errands/shopping or for essential client business with or on behalf of the client as specified in the plan of care.

c) Unit of Service

1) One unit of homemaker service is one hour of direct service provided to the client in the client's home, or while providing transportation/escort to medical facilities, or running errands and/or shopping in behalf of the client.

2) For services which the provider~~vendor~~ was unable to provide due to either the client's absence without prior provider~~vendor~~ notification or refusal to admit the worker into the home to provide service (see Section 240.350), one (1) unit of documented homemaker service per occurrence will be reimbursed to the provider ~~at homemaker vendor to a maximum of two (2) units per client per State fiscal year.~~

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.220 Chore-Housekeeping Service (Repealed)

Chore housekeeping service is defined as performance of household tasks and assistance with personal care under the direct supervision of the client, family member, authorized representative, or other responsible and capable person, in accordance with the authorized plan of care.

a) Service Components

Specific components of chore housekeeping service shall include the following:

1) ~~Performing routine housekeeping tasks such as making and changing beds, dusting, washing, dishes, vacuuming, cleaning and waxing floors, keeping the kitchen and bathroom clean, and laundering the client's linens and clothing; meal preparation; and home maintenance and repairs.~~

2) ~~Performance of or assistance with essential shopping/errands which may include handling the client's money. Proper accounting to the client of money handled and provision of receipts are required. These tasks shall be performed as specifically required by the plan of care and shall be monitored by the chore housekeeping supervisor.~~

3) ~~Under specific direction of the client, family member, authorized representative or other responsible and capable person, assisting with self-administered medication, limited to: reminding the client to take his/her medications; reading instructions for utilization, uncapping medication containers, providing the proper liquid and utensil with which to take medications.~~

4) ~~Escort to medical facilities, errands, shopping and individual business as specified in the plan of care.~~

5) ~~Observing client's functioning and reporting to the supervisor.~~

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6) Under specific direction of the client, family member, or authorized representative, assisting with personal care tasks (e.g., shaving, hair shampooing and combing; assisting with sponge bath or shower bath; assisting with tub-bath which is limited to preparing and monitoring only when the client is able to enter and exit the tub by him/herself; dressing, brushing and cleaning teeth or dentures and in preparation of supplies theretofore.) This service component is considered appropriate only when provided in conjunction with one or more of service components listed in subsections (1) through (3):

b) ~~Chore housekeeping service may include transportation to medical facilities, for essential errands/shopping or for essential client business with the client as specified in the plan of care.~~

c) ~~Unit of Service~~

1) ~~One unit of chore housekeeping service is one hour of direct service provided to the client in the client's home, or while providing transportation/escort to medical facilities, or running errands and/or shopping in behalf of the client.~~

2) ~~For services which the vendor was unable to provide due to either the client's absence without prior vendor notification or refusal to admit the worker into the home to provide service (see Section 240.350), one (1) unit of documented chore housekeeping service per occurrence will be reimbursed to the chore housekeeping vendor to a maximum of two (2) units per client per State fiscal year.~~

(Source: Repealed at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.270 Alternative Provision

a) ~~Alternative providers may be either chore housekeepers or homemakers. An alternative provider is defined as an individual or an agency selected by the client,~~

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assisted by the Case Coordination Unit (CCU), and authorized by the Department to provide Community Care Program services to a client only if the following criteria are met:

1) a contractual provider~~vendor~~ has failed to provide the services as required by the plan of care; and

2) there is no contractual provider~~vendor~~ available to provide the services as required by the plan of care.

b) Alternative providers may be supervised by the client or agency providing the services, as required by the plan of care. The service components and hours of service to be provided, as required by the plan of care, shall conform to the service components as defined in Section 240.210 ~~or Section 240.220 as appropriate.~~

c) The appropriate CCU shall be responsible for monitoring of alternative provider services.

d) An alternative provider shall be authorized by the Department prior to provision of services to the client.

e) Unit of Service

1) One unit of alternative chore housekeeping/homemaker service is one hour of direct service provided to the client while in the client's home, while providing transportation/escort to the client to medical facilities, or while performing essential errands/shopping or conducting essential client business with or on behalf of the client.

2) For services which the provider~~vendor~~ was unable to provide due to either the client's absence without prior provider~~vendor~~ notification or refusal to admit the worker into the home to provide service (see Section 240.350), ~~one (1) unit of documented chore housekeeping/homemaker service per occurrence will be reimbursed to the~~

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alternative ~~where housekeeping/homemaker~~
~~provider~~ to a maximum of ~~two~~ (2) units per
 client per State fiscal year.

(Source: Amended at 18 Ill. Reg. _____, effective February 1,
 1994)

Section 240.280 Individual ~~Where Housekeeping~~ Provider

a) An individual provider is ~~defined as a~~
~~where housekeeper~~ selected, employed, trained and
 supervised by the client or authorized representative
 and reimbursed by the Department on behalf of the
 client, with the following exceptions:

- 1) spouses shall not be reimbursed for Community
 Care Program (CCP) care for spouses, or
- 2) parents shall not be reimbursed for CCP care for
 dependent children.

b) Service components shall include the following as
 specified in the plan of care and under specific
 direction of the client or authorized representative:

- 1) ~~Performing~~ tasks relating to shopping and
 responsibility for appropriately handling money,
 deposits, bill paying, etc.
- 2) Performing routine housekeeping tasks such as
 making and changing beds, dusting, washing
 dishes, vacuuming, cleaning and waxing floors,
 keeping the kitchen and bathroom clean,
 laundering the client's linens and clothing, meal
 preparation, and home maintenance and repairs as
 defined in Section 240.160.
- 3) Providing ~~t~~transportation/escort to medical
 facilities, essential errands, shopping or
 essential client business with the client as
 specified in the plan of care.
- 4) ~~Assisting~~ assistance with personal care tasks
 (e.g., assistance with medication, limited to
 uncapping medication and providing the proper
 liquid and utensil with which to take the

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medication; shaving; hair shampooing and combing;
 assistance with sponge bath or shower bath;
 assistance with tub bath which is limited to
 preparing and monitoring only when the client is
 able to enter and exit the tub by him/herself;
 dressing; brushing and cleaning teeth or dentures
 and ~~in~~ preparation of appropriate cleaning
~~supplies theretofore~~).

5) Observing client's functioning and reporting to
 the Case Coordination Unit.

c) The individual ~~provider~~ ~~where~~ housekeeping service is a
 closed caseload and is not available to new
 applicants/clients who currently are not receiving this
 service.

d) Unit of Service

One unit of individual provider service is one hour of
 direct service provided to the client in the client's
 home; while transporting/escorting the client to
 medical facilities; while performing essential
 errands/shopping or conducting essential client
 business with/on behalf of the client.

(Source: Amended at 18 Ill. Reg. _____, effective February 1,
 1994)

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section 240.350 Applicant/Client/Authorized Representative
 Cooperation

Applicant(s)/client(s)/authorized representative(s) shall cooperate
 with the representatives of the Department/Case Coordination Units
 (CCUs)/~~providers~~ ~~vendors~~ in determinations of eligibility or
 provision of Community Care Program (CCP) services.

a) Failure to cooperate in the actions specified below
 shall be considered non-cooperation and shall be cause
 for suspension.

1) A client/authorized representative shall notify
 the office of the ~~provider~~ ~~vendor~~ at least one (1)
 day in advance when the client will not be

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present in his/her home to receive scheduled services.

A) If the client's absence from his/her home on a day services are scheduled is due to an emergency, the client/authorized representative shall advise the office of the provider as quickly as possible and it will not be considered non-cooperative.

B) The provider shall document the absences of the client without prior notification thereof (except any absence caused by an emergency) and shall be reimbursed by the Department for ~~two~~ such absences (refer to Section 240.210 or 240.220 as appropriate).

C) Two ~~(2)~~ such documented absences within a State fiscal year shall be cause for suspension of the client's services pending termination. The provider has the option of not reporting non-cooperative absences; however, if the second ~~(2nd)~~ non-cooperative absence is reported with request for reimbursement, suspension procedures shall be implemented.

D) The provider shall verbally advise the CCU on the same day, if possible, but not later than the next work day from the date of the second ~~(2nd)~~ non-cooperative absence. A written report including, at a minimum, the names of the client and the worker, and the dates of the first ~~(1st)~~ and second ~~(2nd)~~ non-cooperative absence, shall be mailed by the provider to the CCU within ~~two~~ ~~(2)~~ work days from the date of the second ~~(2nd)~~ non-cooperative absence.

E) Upon receipt of verbal notification of the second ~~(2nd)~~ documented non-cooperative absence within a State fiscal year, the CCU shall suspend the client's services as required in Section 240.930. The date of

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suspension shall be the date that the second ~~(2nd)~~ non-cooperative absence occurred.

2) A client/authorized representative shall notify the office of an adult day care provider at least ~~one~~ ~~(1)~~ day in advance when the client will not be attending the adult day care site or will not be in need of transportation to or from the adult day care site, as scheduled and required by the plan of care.

A) If the client's absence from the adult day care site or refusal to accept transportation to the adult day care site is due to an emergency, the client/authorized representative shall advise the office of the provider as quickly as possible and it will not be considered non-cooperative.

B) The provider shall document the client's absence or refusal to accept transportation without prior notification thereof (except any absence caused by an emergency) and shall be reimbursed by the Department for ~~two~~ ~~(2)~~ such absences or refusals (refer to Section 240.230).

C) Two ~~(2)~~ such documented absences or refusals within a State fiscal year shall be cause for suspension of the client's services pending termination. The provider has the option of not reporting non-cooperative absences; however, if the second ~~(2nd)~~ non-cooperative absence is reported with request for reimbursement, suspension procedures shall be implemented.

D) The provider shall verbally advise the CCU on the same day, if possible, but not later than the next work day from the date of the second ~~(2nd)~~ non-cooperative absence or refusal. A written report including, at a minimum, the names of the client and the worker and the dates of the first ~~(1st)~~ and second ~~(2nd)~~ non-cooperative absence or

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refusal, shall be mailed by the provider to the CCU within ~~two~~ two work days from the date of the second ~~second~~ non-cooperative absence or refusal.

E) Upon receipt of verbal notification of the second ~~second~~ documented non-cooperative absence or refusal within a State fiscal year, the CCU shall suspend the client's adult day care service (including transportation if specified in the plan of care) as required in Section 240.930. The date of suspension shall be the date that the second ~~second~~ non-cooperative absence or refusal occurred.

3) A client/authorized representative shall not refuse to allow the provider into the client's home to provide services.

A) The provider shall document the refusal to allow services to be provided and shall be reimbursed by the Department for ~~two~~ two such refusals (refer to Section 240.210 ~~or 240.220 as appropriate~~).

B) Two ~~two~~ such documented refusals within a State fiscal year shall be cause for suspension of the client's services pending termination. The provider shall verbally advise the CCU on the same day, if possible, but not later than the next work day from the date of the second ~~second~~ refusal. A written report including, at a minimum, the names of the client and the worker and the dates of the first ~~first~~ and second ~~second~~ refusal, shall be mailed by the provider to the CCU within ~~two~~ two work days from the date of the second ~~second~~ refusal.

C) Upon receipt of verbal notification of the second ~~second~~ documented refusal within a State fiscal year, the CCU shall suspend the client's services as required in Section 240.930. The date of suspension shall be

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the date that the second ~~second~~ refusal to allow service occurred.

4) A client/authorized representative shall not interfere with provision of the services specified in the plan of care, either in the client's home or in an adult day care site.

A) The provider shall document the interference with provision of the services specified in the plan of care as stated above.

B) Two ~~two~~ such documented occurrences of interference within a State fiscal year shall be cause for suspension of the client's services pending termination. The provider shall verbally advise the CCU on the same day, if possible, but not later than the next work day from the date of the second ~~second~~ occurrence. A written report including, at a minimum, the names of the client and the worker and the dates of the first ~~first~~ and second ~~second~~ occurrence, shall be mailed by the provider to the CCU within ~~two~~ two work days from the date of the second ~~second~~ occurrence.

C) Upon receipt of verbal notification of the second ~~second~~ documented occurrence of interference within a State fiscal year, the CCU shall suspend the client's services as required in Section 240.930. The date of suspension shall be the date of the second ~~second~~ occurrence of interference.

5) An applicant/client/authorized representative or any family member/friend/acquaintance of the applicant/client/authorized representative shall not threaten or act abusively (e.g., physical, verbal, sexual, etc.) or display a weapon (e.g., gun, knife, etc.) against any representative of the Department, CCU or provider who is present in the applicant's/client's home or at an adult day care site. The applicant/client/authorized representative shall

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be responsible for any animal present in the home of the applicant/client and shall prevent said animal from physically harming a representative of the Department/CCU/provider~~vendor~~.

- A) If the threat or abuse takes place in an applicant's/client's home, the party who has been threatened or abused shall leave the premises immediately and verbally advise the CCU on the same day, if possible, but not later than the next work day.
- B) If the threat or abuse takes place in an adult day care site, the family/authorized representative shall be advised immediately and the CCU shall verbally be advised on the same day, if possible, but not later than the next work day.
- C) A written report including, at a minimum, the name of the client and the in-home worker/adult day care site worker, and the date and details of the threat or abuse, shall be mailed by the provider~~vendor~~ to the CCU within ~~two~~^{two-42} work days from the date that the threat or abuse occurred.
- D) Upon receipt of verbal notification of threat or abuse, the CCU shall, on the same day, if possible, but not later than the next work day:
 - i) suspend a client's services in the client's home and/or at an adult day care site, as required in Section 240.930; or
 - ii) suspend an applicant's determination of eligibility process as required in Section 240.930.
- E) The date of suspension shall be the date that the threat or abuse occurred.

- G) The CCU shall notify the applicant/client/authorized representative and

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the provider~~vendor~~ of the suspension in accordance with Section 240.930(c) and (d).

- 7) The CCU shall develop a memorandum of understanding between the applicant/client/authorized representative, and the representatives of the CCU and the provider~~vendor~~, in accordance with Section 240.930(e).
- 8) Upon the execution of the memorandum of understanding, the client's services or the applicant's determination of eligibility process, as appropriate, shall be reinstated in accordance with Section 240.930(f).
- 9) Failure to sign a memorandum of understanding shall be grounds for termination or denial, as appropriate.
- 10) If, following reinstatement, the requirements of the memorandum of understanding have not been adhered to by the applicant/client/authorized representative, the application shall be denied or services shall be terminated, as appropriate.
- 11) Notification of denial or termination shall be in accordance with Sections 240.910 or 240.945, as appropriate.
 - b) Failure to cooperate in the actions specified below shall be considered non-cooperation and shall be cause for denial of an application or termination of services, as appropriate.
 - 1) An applicant/client/authorized representative or any family member/friend/acquaintance of the applicant/client with the representative shall not inflict physical injury upon any representative of the Department, CCU or provider~~vendor~~, either in the applicant's/client's home or while the client is attending an adult day care site.
 - A) If the infliction of physical injury takes place in the applicant's/client's home, the

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injured party shall leave the premises immediately and verbally advise the CCU on the same day, if possible, but not later than the next work day.

- B) If the infliction of physical injury takes place in an adult day care site, the family/authorized representative shall be advised immediately and the client shall be removed immediately. The CCU shall verbally be advised on the same day, if possible, but not later than the next work day.

- C) A written report including, at a minimum, the names of the client and the in-home worker/adult day care site worker, and the date and details of the infliction of physical injury, shall be mailed by the provider/vendor to the CCU within ~~two~~ (2) work days from the date that the physical injury was inflicted.

- D) Upon receipt of verbal notification of the infliction of physical injury the CCU shall, on the same day, if possible, but not later than the next work day:

- i) institute immediate denial of application or termination of services. The effective date of denial or termination shall be the date that the infliction of physical injury occurred;
- ii) verbally notify the applicant/client/authorized representative of the denial or termination. Written notification shall be sent by certified mail to the applicant/client/authorized representative, and by regular mail to the provider/vendor, within ~~five~~ (5) calendar days from the date of the verbal notification; and
- iii) verbally notify the Department of the denial or termination followed by a written report within ~~five~~ (5) calendar

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days from the date of the verbal notification.

- 2) Applicant(s)/client(s)/authorized representative(s) shall provide assistance in securing documentation and/or factual information to be utilized in the determination of initial and continuing eligibility for Community Care Program (CCP) services, as well as the type, level and amount of services to be provided. Refusal to provide the specified assistance needed shall be cause for denial of an application or termination of a client's services, as appropriate.
- 3) Applicant(s)/client(s)/authorized representative(s) shall provide a mailing address, including sufficient information to enable the Department/CCU/provider/vendor to locate the applicant/client/authorized representative (i.e., the name, address and telephone number of a contact through whom the applicant/client may be located, or it may be necessary to provide directions to the applicant's/client's home). Refusal to provide the specified assistance needed shall be cause for denial of an application or termination of a client's services, as appropriate.
- 4) Notification of denial or termination shall be in accordance with Section 240.910 or 240.945, as appropriate, except as specified in subsection (b)(1)(D) above.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART H: FINANCIAL REQUIREMENTS

Section 240.870 Determination of Applicant/Client Monthly Expense for Care

The amount of the expense which will be incurred monthly for Community Care Program (CCP) services by the eligible

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applicant/client shall be determined in the following manner:

- a) Calculate available income by:
 - 1) determining applicant/client/family total monthly non-exempt income, and
 - 2) deducting the protected income, which is based upon the effective federal poverty level and the number of persons in the family.
- b) Determine the applicant's/client's monthly cost for care by multiplying the units of service(s) provided each month to the applicant/client by the following client fixed fee share rates:

Homemaker -- \$5.30	\$5.05 per unit
Chore Housekeeping	\$5.30 per unit
Adult Day Care --	\$18.50 per unit
- c) Select the appropriate CCP Fee Schedule, based upon:
 - 1) the number of persons in the family who are receiving CCP services, and
 - 2) a score of 56 or fewer total points or a score of 57 or more total points on the Determination of Need.
- d) If 2 or more members of a family are receiving CCP services, the selection of the appropriate Fee Schedule will be based upon the highest point count scored.
- e) Use the available income and the applicant's/client's monthly cost for care with the appropriate Fee Schedule to determine the amount of applicant/client expense which will be incurred monthly for CCP services.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART I: DISPOSITION OF DETERMINATION

Section 240.910 Written Notification

Each individual applying for Community Care Program (CCP) services

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shall receive written notification of eligibility or ineligibility to receive CCP services.

- a) Written notification shall be sent to the individual within fifteen (15) calendar days from the date of the completed determination of eligibility.
- b) The written notification shall contain the following statement:

NOTICE

If you have been found eligible for Community Care services, you should begin receiving services within 15 days of the date of this Notice. If a homemaker or housekeeper has not come to help you within 15 days, you can hire your own homemaker or housekeeper (including a friend or relative) to provide the amount and type of Community Care services specified in this Notice. The Department on Aging will pay the homemaker or housekeeper you have hired to the extent authorized by the Notice of Eligibility at the Department's standard rate. Payment shall continue until such time as the Department's approved provider initiates provision of Community Care services to you.

If it is necessary for the client to hire his/her own homemaker or housekeeper due to the failure of the authorized provider to provide CCP services within fifteen (15) calendar days, such temporary services and payment for such services shall terminate immediately upon initiation of service provided by a CCP approved provider. (Refer to Section 240.1580(c).)

If an individual is determined ineligible and an application is denied, the written notification shall be sent to the applicant by certified mail, return receipt requested, or given to the applicant personally, in which case the applicant shall provide a signed and dated receipt for the notice. The notice shall clearly state the reason for the denial and shall advise the applicant of his/her right to appeal the decision. (Refer to Section 240.400.)

- e) If an applicant is denied because of death, the notice

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may be sent by regular mail.

- f) The date of the written notice of eligibility or ineligibility shall be the same date as the date of mailing. The ~~provider~~ shall be notified on the same date of mailing as the client.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART O: PROVIDERS

Section 240.1510 Provider Administrative Minimum Standards

The provider shall assure:

- a) Confidentiality of client records is maintained as required by Section 240.340.
- b) The type and amount of service is provided in accordance with the Client Agreement - Plan of Care as developed and authorized by the Case Coordination Unit (CCU).
- c) Money handling activities related to necessary shopping/errand activities, including receipt procedures are monitored.
- d) Each job category has a job description, a wage range and the agency has personnel policies which include benefits, promotion and evaluation criteria.
 - 1) Each employee is provided a written job description which applies to his/her job category.
 - 2) A copy of current written personnel policies for his/her specific job category shall be available to all employees.
 - 3) Each employee is informed of the wage range for the specific job category at the time of employment and any subsequent revisions.
 - 4) Employee benefits and grievance procedures are clearly stated in writing and comply with both

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State and Federal regulations.

- 5) Personnel records are maintained for each employee and include at least the following:

- A) employee application;
- B) annual performance evaluation;
- C) documentation of participation in initial training, in-service and other pertinent training (orientation in agency policies) is in accordance with Department training required by Sections 240.1535, ~~240.1545~~ and 240.1555;
- D) ~~d~~Documentation of supervisory home and on-site visits, office conferences and evaluations.
- e) Observance of policies and procedures to control the spread of infectious diseases.
- f) All Department required documentation to support units of service requested for reimbursement is retained for a minimum of 5 years from the termination date of the provider's contract with the Department.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1520 Provider Responsibilities

- a) Community Care Program (CCP) services shall be purchased only from providers determined capable and competent by the Department to provide such services, as described in Section 240.1635.
- b) In-home care providers shall carry general liability insurance in the single limit minimum amount of \$100,000 per occurrence. (The policies or current letters documenting all insurance coverage shall be available to the Department upon request).
- c) In-home care providers shall also carry the following insurance coverages:

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- 1) volunteer protection equivalent to employees' coverage, including coverage for volunteer drivers/escorts; and
- 2) motor vehicle liability, uninsured motorist and medical payments if staff transport clients in agency vehicles.
- d) All providers of CCP services must comply with all applicable local, State and Federal laws, rules and regulations.
- e) A provider shall provide services to all CCP clients referred by the Case Coordination Unit (CCU), with the following exceptions:
 - 1) The client does not meet the Adult Day Care Center's admission criteria.
 - 2) The plan of care is determined to be inappropriate in the professional judgement of the provider.
 - A) The provider shall immediately notify the CCU of the provider's assessment and evaluation of the situation.
 - B) The provider and the CCU shall work together to determine if a plan of care that adequately meets the client's needs can be developed.
 - C) In the event the provider and the CCU cannot reach an agreement, the Department shall be contacted and shall determine the final resolution.
 - 3) The provider is unable to accept all CCP referrals.
 - A) The provider shall request a cap on the number of clients to be served (service cap) in writing, to the Department.
 - B) Upon approval of the request, the provider assumes responsibility for managing intake

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to maintain the cap.

- C) The Department will not approve a service cap for a contractor which is the only provider of ~~these housekeeping or~~ homemaker services in the contract area.
- f) A provider shall not deviate from the client's plan of care without receipt of written instruction from the Department or the CCU on approved Department CCP forms, except in cases of emergency, client refusal of service or client failure to be home to receive service. Any temporary change or deviation from the plan of care must be documented by the provider in the client's file.
- g) It shall be the responsibility of the provider to advise the CCU of any change in the client's physical/mental/environmental needs which the provider, through the direct service worker/supervisor, has observed, when such change would affect the client's eligibility or service level or would necessitate a change in the plan of care.
- h) All providers shall reply to requests by a client, by telephone or in writing, within 15 calendar days from the date of the request. The request and the response shall be documented in the client's file.
- i) The provider shall be responsible for the collection from the client of the incurred expense for care provided to the client in the following manner:
 - 1) The provider is responsible for billing the clients for whom they provide CCP services once per month in the month following the provision of service, and in the manner prescribed by the Department. Such billings shall be based, for each client, upon the units of service provided and the fixed fee share rate for the client's incurred expense for care except as noted in subsection (i)(3) below.
 - 2) Providers shall not require clients to pay a greater share of the cost of services prescribed in the plan of care than required by the Client

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Agreement - Plan of Care.

- 3) For clients who are required, because of income, to pay for 100 percent of their services, charges for CCP services shall be based upon the units of service multiplied by the provider's contracted rate (refer to Section 240.870).
- 4) If a client requests additional service from the provider other than that allowed by the Client Agreement - Plan of Care, the Department will not be billed for those additional units of service.
- j) Providers may accept partial or full payment from a third party for a client's incurred expense. However, the liability for the proportionate share, if third party payment is not received, remains with the client as indicated by the expense for care agreement executed by the client and included as an integral part of the Client Agreement - Plan of Care.

- k) Providers have the option of not billing a client for the incurred expense for care.

- l) Providers shall respond verbally or in writing to the client on any question presented to the provider either verbally or in writing, regarding the validity of a billing. If the question is not resolved to the satisfaction of the client, the provider shall advise the client of his/her right to appeal the question, and the provider shall assist the client in filing an appeal if requested or needed. The provider shall also advise the client that non-payment shall result in discontinuance of CCP services. Providers may not discontinue services until authorized to do so by the CCU (refer to Section 240.935).

- m) Providers shall submit a Vendor Request for Payment form which shall be received by the Department no later than the fifteenth day of the month following the month in which services were provided. The form shall state the number of units of service provided to each identified client during the service month. Reimbursement to the provider by the Department will be adjusted by calculating and deducting the client's incurred expense for care based upon the fixed fee

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share rate except as noted in subsection (i)(3) above.

- n) Providers shall bill the Department for service rendered to clients in increments of full or one-half units only. Adult day care providers shall bill for not less than one nor more than 2 units of agency-provided-transportation to/from the adult day care site per client for each 24-hour period in which adult day care service is provided to each client (refer to Section 240.1950).

- o) The provider shall advise the CCU of any failure by a client to pay a monthly bill rendered by the provider for services provided to the client for more than 30 calendar days from the date of the initial monthly billing. The provider may request the CCU to discontinue service to the client in default as stated above (refer to Sections 240.875 and 240.935).

- p) If the client makes payment to the provider for incurred monthly expense which has already been reimbursed to the provider by the Department, the provider shall reimburse the Department within 30 calendar days from the date of receipt of payment from the client.

- q) Providers shall provide the Department with an annual audit report to be completed in accordance with Generally Accepted Auditing Standards and the Department on Aging Audit guidelines.

- 1) The annual audit shall assure that ~~there- housekeeping and~~ homemaker providers are in compliance with the financial reporting requirements as outlined in Section 240.2020. A Certified Public Accountant's (CPA's) opinion concerning the cost report shall be submitted with the audit. The CPA's opinion may be limited to:

- A) the provider prepared the cost report by using acceptable accounting methods to allocate costs; and,
- B) the cost reports are supported by provider accounting records.

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- 2) The audit report shall be filed at the offices of the Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62701, within 6 months from the date of the close of the provider's business fiscal year.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1535 Homemaker Staff Positions, Qualifications and Responsibilities

a) Homemaker Supervisor

- 1) Activities of a homemaker supervisor shall include:

- A) documenting client contacts and activities related to client services in the client's file;
- B) preparing or reviewing reports and service reports;
- C) monitoring receipt procedures in the conduct of essential shopping and errands as stated in the plan of care;
- D) providing input to the case manager on the services that are needed for each client as a result of conferences with the homemaker or in-home visits;
- E) planning, preparing, and documenting contact and quarterly worker conferences with each assigned homemaker;
- F) evaluating each assigned homemaker annually;
- G) coordinating the homemaker's activities with other components of the plan of care as required;
- H) making and documenting semi-annual in-home supervisory visits for each assigned homemaker;

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- I) making home visits, as necessary, to provide hands-on training and assistance; and
- J) initiating and/or participating in client staffing discussions with the case manager, as necessary.

- 2) Qualifications for a homemaker supervisor shall include:

- A) a high school diploma or general education diploma; or

- B) combination of skills and experience which indicate that the applicant has the ability to perform the duties of a homemaker supervisor.

b) Homemaker Staff

- 1) Activities of homemaker staff include the following:

- A) following a client's written plan of care;
- B) carrying out duties as assigned by the case manager;
- C) observing the client's functioning and providing necessary receipts and documentation in the conduct of essential services;
- E) maintaining records of daily activities, observations, and direct hours of service; and
- F) attending initial training, in-service training sessions and staff conferences.

Qualifications of a homemaker shall include:

- A) a high school diploma or general education diploma; or

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- B) one year of homemaker/chore-housekeeping direct service work experience in the CCP, in a comparable human service program, or for a dependent child or adult family member; or
- C) ~~demonstration of demonstrate~~ continued progress towards meeting the educational requirement of a general education diploma by current registration and evidence of successful completion of course work (successful completion means achievement of a grade of "C" or higher); ~~or~~
- D) service as a Community Care Program chore-housekeeping direct service worker prior to the effective date of this Section; and
- E) having ~~have~~ a basic knowledge of home management skills; and
- FE) in addition:
- i) new employees shall receive 15 hours of initial face-to-face training excluding agency orientation, prior to assignment to provide services to a CCP client without a supervisor or trainer present (not to exceed a 6 month period from said training to first assignment);
 - ii) initial training may be exempt if a worker has had previous documented and supervised training within the past 2 years prior to this employment, equivalent to 15 hours for homemaker initial training or equivalent to 12 hours for chore-housekeeping initial training prior to the effective date of this Section, or has successfully completed RN, LPN, MD or CNA training in the past and has been employed in the field within the past 2 years; and
 - iii) thereafter, a minimum of 3 hours per calendar quarter of face-to-face

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in-service training shall be mandatory for all workers. Initial training shall fulfill the first quarter in-service training requirement for new employees except when the initial training is exempt for previous documented and supervised training as described in subsection (b)(2)(E)(ii) above. Training hours in excess of 3 hours may be carried forward to satisfy training requirements in the following quarter(s).

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1540 General Chore-Housekeeping Staffing Requirements
(Repealed)

~~Each chore housekeeping provider shall have specified staff to carry out the following functions:~~

- a) ~~A designated individual who has responsibility for administration of the Community Care Program (CCP) chore housekeeping program.~~
- b) ~~Qualified chore housekeeping staff to meet the needs of all cases referred for the provision of chore housekeeping services. In determining what services are sufficient, the Department shall look to whether chore housekeeping services are adequate. Inadequate chore housekeeping services are characterized by delays or interruptions in the provision of chorehousekeeping services or by failure to provide chorehousekeeping services as required by the plan of care.~~
- e) ~~The chore housekeeping provider shall assign responsibilities to staff which include the following:~~
 - 1) ~~planning and administration of the chore housekeeping program; assuring adequate staff to provide required services; serving as liaison between staff and the community; implementing policies according to regulations promulgated by the Department which govern the program; and~~

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recruiting, training and supervising staff.

- 2) ~~Supervising of workers shall be accomplished by qualified staff who have responsibility to ensure that the workers are scheduled and that assignments are kept.~~

- d) ~~Chore housekeeping providers shall not sub-contract for management, supervisory or chore housekeeping staff personnel.~~

(Source: Repealed at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities (Repealed)

- a) ~~Chore housekeeping Supervisor~~

- 1) ~~Activities of a chore housekeeping supervisor shall include:~~

- A) ~~documenting client contacts and activities related to client services in the client's file;~~

- B) ~~preparing or reviewing reports and service reports;~~

- C) ~~monitoring the service components of receipt procedures in the conduct of essential shopping and errands as stated in the plan of care;~~

- D) ~~providing input to the case manager on the services that are needed for each client as a result of conferences with the chore housekeeper or in home visits;~~

- E) ~~planning, preparing and documenting contact and quarterly worker conferences with each assigned chore housekeeper;~~

- F) ~~evaluating each assigned chore housekeeper annually;~~

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- G) ~~coordinating the chore housekeepers' activities with other components of the plan of care as required;~~

- H) ~~making and documenting semi annual in home supervisory visits for each assigned chore housekeeper;~~

- I) ~~making home visits, as necessary, to provide hands on training and assistance; and~~

- J) ~~initiating and/or participating in client staffing discussions with the case manager, as necessary.~~

- 2) ~~Qualifications for a chore housekeeping supervisor shall include:~~

- A) ~~a high school diploma or general education diploma; or~~

- B) ~~combination of skills and experience which indicate that the applicant has the ability to perform the supervisory activities.~~

- b) ~~Chore housekeeping Staff~~

- 1) ~~Activities of chore housekeeping staff shall include:~~

- A) ~~following a client's written plan of care;~~

- B) ~~carrying out duties as assigned by the supervisor;~~

- C) ~~maintaining records of daily activities, observations, and direct hours of service;~~

- D) ~~observing the client's functioning and reporting to the chore housekeeping supervisor;~~

- E) ~~providing necessary receipts and documentation in the conduct of essential shopping errands; and~~

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F) ~~attending initial training, in service training sessions and staff conferences.~~

2) ~~Qualifications of a chore housekeeper shall include:~~

A) ~~housekeeping skills;~~

B) ~~exhibition of a positive attitude towards the elderly or impaired;~~

C) ~~the ability to communicate effectively;~~

D) ~~the ability to follow oral and/or written directions;~~

E) ~~the ability to be responsible for and account for the client's money in order to provide the necessary shopping/errand component; and~~

F) ~~in addition:~~

i) ~~new employees shall receive 12 hours of initial face to face training, excluding agency orientation, prior to assignment to provide services to a CCP client without a supervisor or trainer present (not to exceed a 6 month period from training to first assignment);~~

ii) ~~initial training may be exempt if the worker has had previous documented and supervised training within the past 2 years prior to this employment, equivalent to 12 hours, or has successfully completed RN, LPN, MD or CNA training in the past and has been employed in the field within the past 2 years; and~~

iii) ~~thereafter, a minimum of 3 hours per calendar quarter of face to face in service training shall be mandatory for all workers. Initial training shall fulfill the first quarter~~

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~~in service training requirement for new employees except when the initial training is exempt for previous documented and supervised training as described in subsection (ii) above. Training hours in excess of 3 hours may be carried forward to satisfy training requirements in the following quarter(s).~~

(Source: Repealed at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1590 Standard Requirements for Individual Chore-
~~Housekeeping-Provider Services~~

a) All determinations and redeterminations of eligibility shall be made by the appropriate Case Coordination Unit (CCU) at least once a year or as requested by the client, the client's authorized representative, the client's physician, provider or Department staff.

b) Individual providers shall follow the plan of care developed by Department staff.

c) Individual providers shall be evaluated by the CCU as to their ability to provide needed services through quality of work and dependability.

d) Qualifications for an individual chore housekeeping provider shall include:

1) ~~be~~ at least 18 years of age;

2) ~~not~~ be the spouse of the client being served client;

3) ~~not~~ be the parent of the client who is a dependent child; and

4) ~~demonstrate~~ must demonstrate skills necessary to follow the written plan of care.

e) The Department may recommend that a client receiving individual provider ~~chore housekeeping~~ service be transferred to an agency provider for such services, if

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the Department staff determine one or more of the following:

- 1) potential abuse is noted; or
- 2) the individual provider~~household~~-employee is not meeting the client's needs as established in the Client Agreement - Plan of Care; or
- 3) there is a high turnover of individual providers~~household~~-employees; or
- 4) the client cannot find an individual provider~~household~~-employee.

f) Such determination by Department staff may be made as a result of a telephone or written inquiry or complaint to the Department from any of the following:

- 1) the client;
- 2) the client's Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner;
- 3) the Case Coordination Unit (CCU).

g) Transfer to an agency provider will be based on the following considerations:

- 1) whether the client, if transferred, will lose sufficient hours of service, based upon the Determination of Need through the eligibility process, which may place the client at very high risk; or
- 2) whether a relative (other than a spouse or a parent) is the individual ~~household~~-employee provider, and/or if the client, for other reasons, wants to keep the individual provider~~employee~~, but the agency provider may not be able to hire the individual provider~~employee~~.

h) If, during the Determination of Need process, the CCU believes that the client may need a combination of services (such as individual provider services as

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described in Section 240.280~~housekeeping~~ and adult day care), the CCU shall recommend the combined service provision to the Department. The Department shall determine whether the combination of services of the individual ~~housekeeping~~-provider and agency provider is appropriate or whether it is more appropriate to transfer the client from individual ~~housekeeping~~ provider services to agency provider(s) for all services.

i) Payment for services provided by an individual ~~housekeeper~~-provider shall be made by the Department on behalf of the client.

j) Payment shall be in compliance with the State Prompt Payments Act (Ill. Rev. Stat. 1991, ch. 127, pars. 132.401 et seq.) [30 ILCS 540/1 et seq.].

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART P: PROVIDER PROCUREMENT

Section 240.1600 Provider Contract

a) All services provided to Community Care Program clients shall be delivered in accordance with contracts entered into between the provider agencies and the Department. The Department shall operate, for services as described in Sections 240.210, ~~240.220~~, 240.230 and 240.250, under procurement policies described in this Subpart.

b) The contract shall be a binding agreement between the Department and the provider agency as evidence of the terms and conditions of the contract. The terms and conditions shall, at a minimum, include the following:

- 1) the contractual agreement between the Department and the provider may be terminated without cause by either party upon 30 calendar days written notice;
- 2) the contractual agreement between the Department and the provider may be amended, with the mutual consent of both parties, at any time during the term of the contract;

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- 3) all program and financial records, reports, and related information and documentation, including client files, which are generated as a result of the agreement shall be considered the property of the Department.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1610 Procurement Cycle for Provider Services

- a) The Department will solicit proposals for the provision of Community Care Program (CCP) services on a 6 Fiscal Year cycle, beginning with contracts effective July 1, 1993.

- 1) To ensure all contracts are procured equitably, at least once every 6 years each County/Sub-Area/Region within all 102 Illinois counties will be opened for free and open competition for contracts to provide CCP homemaker, ~~there~~ ~~housekeeping~~ and adult day care services.

- 2) An initial selection of at least one-third of the CCP contracts resulting from the Fiscal Year 1991 statewide solicitation shall be opened for competition by County/Sub-Area/Region, with contracts effective July 1, 1993. Thereafter, at least one-third of the CCP contracts, by County/Sub-Area/Region, shall be opened for solicitation and contract award every 2 years.

- 3) The Department shall offer a contract for a period of time not to exceed 6 years.

- 4) All areas except the City of Chicago and Suburban Cook County will be opened for solicitation by County.

- A) The City of Chicago and Suburban Cook County will be opened for solicitation by Sub-Area or Region: 5 Sub-Areas in the City of Chicago and 3 Regions in Cook County.

- B) No more than 2 Sub-Areas and 1 Region shall be randomly selected during any

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solicitation.

- C) Once a County/Sub-Area/Region has been randomly selected for solicitation in a scheduled procurement, that County/Sub-Area/Region cannot be randomly selected a second time during the 6 year contract effective period, except as noted in Section 240.1605(c).

- D) The Department reserves the right to a limited selection of additional Counties/Sub-Areas/Regions which may exceed the random selection for a scheduled 2 year procurement cycle.

- b) Contracts issued prior to June 30, 1993 shall terminate no later than June 30, 1997.

- c) If there is a change in the established fixed unit rate amount (refer to Subpart 5 of this Part), the Department shall exercise its 30 calendar day termination rights or mutual amendment rights in order to ensure implementation of the changed rate.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1630 Criteria for Number of Provider Contracts Awarded
The Department will establish in advance, and publish in the Official State Newspaper, the notice of the Request for Proposal (RFP) for services and the County(ies)/Sub-Area(s)/Region(s) to be opened for solicitation.

- a) In each County/Region, the Department prefers to contract with at least 2 providers for each service.

- 1) If the Department determines that one provider is sufficient to provide adequate service to Community Care Program clients in a County/Region, or if the caseload size is not sufficient to support 2 providers in a County/Region, the Director may determine that it is in the best interests of the Community Care Program to contract with a single provider in a

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County/Region.

2) Additional providers will be contracted with, on an as needed basis, to ensure that the best interests, as determined by the Department, of the client population are met.

b) In each Sub-Area in the City of Chicago, the Department will contract with no more than 11 Sub-Area-wide providers for a specific service in a Sub-Area.

EXCEPTION: The Department will contract with no more than 86 Sub-Area-wide providers for ~~homemaker~~ ~~specific~~ service in the City of Chicago's Northeast and Northwest service areas. The Department will not set any minimum or maximum number of adult day care service contracts to be awarded within any County/Sub-Area/Region, and will entertain proposals for adult day care for a portion of a specified County/Sub-Area/Region.

c) The Department may contract with additional providers in a restricted contract area (less than the full County/Sub-Area/Region) when it is demonstrated that the special needs of a racial and/or language minority and/or other population(s) residing within that restricted contract area can best be met by additional providers and/or when a provider is well-established and has a history of providing service to a restricted contract area.

d) At no time can a provider serving an unrestricted contract area also serve a restricted contract area in the same County/Sub-Area/Region.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1650 Classification of Provider Service Violations

Failure(s) to comply with the contract/Department rules shall be identified and classified by the Department.

a) In determining the classification assigned to each provider service violation, the Department shall

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consider the following:

1) ~~t~~The severity of the violation~~;~~

2) ~~t~~The danger posed by the violation to the health, safety and welfare of the client, based upon degree of client impairment and availability of support sources~~;~~

3) ~~t~~The provider's efforts to correct violations~~;~~

4) ~~t~~The volume and scope of violation(s).

b) There are three classifications of violations: Type I, Type II, and Type III.

1) Type I provider violations are client-centered violations which pose an imminent risk to the health, safety and welfare of the Community Care Program (CCP) client, and represent situations where failure to correct the violation could result in the client's potential hospitalization or nursing home placement. Type I violations shall receive priority attention, requiring immediate (within 24 hours) correction to remove the risk environment. Permanent correction must be achieved within 60 calendar days.

2) Type II provider service violations are client-centered violations which pose a potentially serious risk to the client. These violations are to be corrected within 60 calendar days.

3) Type III provider service violations are administrative violations which pose a very low risk to the client. The timeframe for correction of Type III violations shall be 60 calendar days or as established in an approved work plan.

c) Provider service violations include, but are not limited to, violation of the following Community Care Program rules:

1) ~~a~~Adult day care standard requirements, as specified in Section 240.1550~~;~~

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- 2) ~~a~~Adult day care and in-home provider staffing requirements, as specified in Sections 240.1530, ~~240.1540~~ and 240.1551.
- 3) ~~s~~Special services, as specified in Subpart J.
- 4) ~~p~~Provider administrative minimum standards and responsibilities, as specified in Sections 240.1510, 240.1520 and 240.2020.
- 5) ~~s~~Service components, as specified in Sections 240.210, ~~240.220~~, 240.230, 240.270 and 240.280.
- 6) ~~a~~Adult day care and in-home provider staff qualifications and responsibilities, as specified in Sections 240.1535, ~~240.1545~~ and 240.1560.
- 7) ~~s~~Service provision requirements, as specified in Section 240.915.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART S: RATES

Section 240.1920 Contract Specific Variations

The Department will consider reimbursing a provider at a rate other than the established fixed unit rate to compensate for contract specific variations in cost. This consideration will be made under the following circumstances:

- a) there is evidence to suggest that a contract area currently served by a provider will become "unserved" due to inadequate reimbursement by the State to cover costs. An adjusted rate will be used only after the "emergency contracting process", as defined in Section 240.1605, has shown that no provider offered an emergency contract is willing to provide service in the contract area at the established fixed unit rate. The adjusted rate will then be determined through the competitive procurement process as defined in Section 240.1605.
- b) Once a contract area has established an adjusted rate,

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that rate shall be effective until such time as a new procurement process has been initiated.

- c) The adjusted rate contractor must still meet the requirements for ~~home housekeeping~~ and homemaker ~~provider~~ as stated in Section 240.2020, and Section 240.2040.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.1930 Fixed Unit Rates of Reimbursement for ~~Home Housekeeping~~ and Homemaker Services

The Department will establish a fixed unit rates of reimbursement for ~~home housekeeping~~ and homemaker services exclusive of those services as defined in Sections 240.270 and 240.280. The fixed unit rates of reimbursement will be published in the official State newspaper.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

SUBPART T: FINANCIAL REPORTING

Section 240.2020 Financial Reporting of ~~Home Housekeeping~~ and Homemaker Services

- a) Provider agencies will be required to submit a cost report, the Direct Service Worker Cost Certification as specified below. The report must be based upon actual, documented expenditures.

- 1) The report must be submitted annually, within 6 months of the end of the reporting period, and may be prepared as a part of the provider's annual audit.
- 2) The report may be on either a calendar year basis or the provider's fiscal year (once a provider has elected to base the report on a calendar or fiscal year, this election can be changed only upon written approval of the Department).
- b) The cost report must demonstrate that the provider has expended a minimum of 73% of the total revenues due

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from the Department, to include the client incurred expense, for Direct Service worker costs as enumerated in Section 240.2050.

- c) The cost report shall identify the provider's expenditures for Direct Service worker costs of Program Support costs, and Administrative costs as enumerated in Section 240.2050.
- d) The accuracy of the report must be attested to by an authorized representative of the provider.
- e) The Department reserves the right to require the provider to engage an independent certified public accounting firm to verify the information and data submitted by the provider if the Department is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the provider's expense.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.2030 Unallowable Costs for ~~Chore Housekeeping and~~ Homemaker Services

Certain costs shall not be considered by the Department in establishing a fixed rates of reimbursement for ~~chore housekeeping and~~ homemaker services:

- a) expenses resulting from transactions with related parties/parent organizations which are greater than the going market cost of the transactions to the provider;
- b) non-straightline depreciation;
- c) bad debts;
- d) special benefits to owners, including owner and key-man life insurance;
- e) compensation to non-working owners and officers;
- f) discounts, rebates, allowances, and charity grants offered by the agency;

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- g) entertainment expenses;
- h) fund-raising;
- i) legal fees for litigation with governmental agencies;
- j) awards, grants and gifts to individuals;
- k) fines and penalties;
- l) contingency funds; and
- m) losses on other grants and contracts.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.2040 Minimum Direct Service Worker Costs for ~~Chore Housekeeping and~~ Homemaker Services

- a) Providers are required to expend a minimum of 73% of the total revenues due from the Department, to include the client incurred expense, for Direct Service Worker Costs, as enumerated in Section 240.2050 during a reporting year.

- 1) This percentage is to be adhered to on a statewide basis.
- 2) The remaining 27% of the total revenues may be spent by the provider agencies at their discretion on Administrative or Program Support costs, also delineated in Section 240.2050.
- b) Failure of the provider to meet the requirements in subsection (a) above may result in the following:
 - 1) The provider will be required to submit and observe a Department-approved corrective action plan which ~~shall~~ include provider payments to current direct service workers in an amount which will, in total, bring the provider into compliance with the requirements in subsection (a) above.
 - 2) Failure by the provider to submit and/or

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observe a corrective action plan shall result in the following Department sanctions:

- A) closure of intake (all or some contracts) for a period of time provided by written notice to the provider/vendor; or
- B) termination (all or some contracts).

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

Section 240.2050 Cost Categories for ~~Chore Housekeeping and~~
Homemaker Services

Providers of ~~chore housekeeping and~~ homemaker services for which a fixed rates ~~is~~ established will provide for cost reporting based on the following categories:

- a) Direct Service Worker costs (costs paid to or on behalf of direct service workers) which may include:
 - 1) wages, time paid on behalf of the worker (i.e., vacation, sick leave, holiday and personal leave);
 - 2) health coverage, life insurance and disability insurance;
 - 3) retirement coverage;
 - 4) FICA;
 - 5) uniforms;
 - 6) workers compensation;
 - 7) FUTA;
 - 8) travel time and travel reimbursement;
 - 9) unemployment insurance; and
 - 10) other costs approved, in advance, as direct service costs by the Department.

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b) Administrative Costs:

- 1) personnel:
 - A) administrator;
 - B) assistant administrator;
 - C) accountant/bookkeeper;
 - D) clerical;
 - E) other office staff;
 - F) other personnel expenses;
- 2) consultant:
 - A) auditors;
 - B) management consultants;
 - C) management fees from the parent organization;
 - D) other related consultant costs;
 - E) other consultant expenses;
- 3) non-personnel:
 - A) office supplies;
 - B) office equipment (expense or depreciation based upon company policy);
 - C) telephone/telegraph;
 - D) conferences, conventions, meeting expenses;
 - E) subscriptions and reference materials;
 - F) postage and shipping;
 - G) advertising;

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- H) outside printing and art work;
- I) membership dues;
- J) moving and recruiting;
- K) other general operating expenses;
- L) profit;

4) occupancy:

- A) depreciation;
- B) amortization of leasehold improvements;
- C) rent;
- D) property taxes;
- E) interest;
- F) other related occupancy costs.

c) Program Support Costs which include all allowable costs not specifically made a part of direct service costs or administrative costs. These may include:

- 1) training expenses;
- 2) malpractice insurance;
- 3) direct service worker supervisor costs.

(Source: Amended at 18 Ill. Reg. _____, effective February 1, 1994)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: Pole Attachment Rates, Terms and Conditions Applicable to Cable Television Companies, Electric Utilities and Telecommunications Carriers

2) Code Citation: 83 Ill. Adm. Code 315

3) Section Numbers: Adopted Action:

- 315.10 Amendment
- 315.20 Amendment
- 315.30 Amendment
- 315.40 New Section
- 315.50 New Section
- 315.60 New Section
- 315.70 New Section

4) Statutory Authority: Implementing Section 7-102 and authorized by Section 10-101 of the Public Utilities Act (Ill. Rev. Stat. 1991, ch. 111 2/3, pars. 7-102 and 10-101)[220 ILCS 5/7-102 and 10-101].

5) Effective Date of Amendments: February 1, 1994

6) Does this rulemaking contain an automatic repeal date? No.

7) Do these amendments contain incorporations by reference? No.

8) Date Filed in Agency's Principal Office: December 23, 1993

9) Notice of Proposal Published in Illinois Register:

January 8, 1993, at 17 Ill. Reg. 202.

10) Has JCAR issued a Statement of Objections to these amendments? Yes.

A) Statement of Objection: _____, at _____ Ill. Reg.

B) Agency Response: _____, at _____ Ill. Reg.

C) Date Agency Response Submitted for Approval to JCAR: January 3, 1994

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11) Difference(s) between proposal and final version:

Section 315.20(b) modified to meet JCAR objection.

Section 315.70 added.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes.

13) Will these amendments replace emergency amendments currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Amendments: These amendments establish a presumptive methodology for the computation of annual rental rates to be paid by cable television companies to regulated entities under the jurisdiction of the Commission for the use of space on distribution poles.

16) Information and questions regarding these adopted amendments shall be directed to:

Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-8439

The full text of the Adopted Amendments begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF UTILITY

PART 315

POLE ATTACHMENT RATES, TERMS AND CONDITIONS APPLICABLE TO CABLE TELEVISION COMPANIES, AND ELECTRIC AND TELEPHONE-PUBLIC UTILITIES AND TELECOMMUNICATIONS CARRIERS

Section
315.10 Statement of Purpose and Commission Policy
315.20 Preferred Presumptive Pole Attachment Rental Rate Formula
315.30 Procedure
315.40 Pole Inspections
315.50 Make-Ready Work
315.60 Indemnification
315.70 Prospective Application

AUTHORITY: Implementing Section 27 7-102 and authorized by Section § 10-101 of ~~an Act concerning public utilities~~ the Public Utilities Act (Ill. Rev. Stat. 1983 1991, ch. 111 2/3, pars. 27 and 7-102 and 10-101)[220 ILCS 5/7-102 and 10-101].

SOURCE: Adopted at 9 Ill. Reg. 2471, effective Feb. 13, 1985; amended at Ill. Reg. , effective February 1, 1994.

Section 315.10 Statement of Purpose and Commission Policy

a) The purpose of this ~~rule~~ Part is to designate a preferred presumptive methodology for computation of annual rental rates to be paid by cable television ("CATV") companies to electric utilities and telephone public utilities to local exchange telecommunications carriers (collectively "regulated entities") under the jurisdiction of the Illinois Commerce Commission ("Commission") for the use of space on ~~such utilities~~ distribution poles for attachment of CATV cables and associated facilities.

b) It is the policy of the Illinois Commerce Commission that CATV companies and ~~public utilities~~ regulated entities should, to the maximum extent possible, endeavor to establish pole attachment rental rates through negotiation and without resort to the processes of the Commission. The preferred presumptive pole attachment rental rate formula is designated herein in order to provide guidance to all parties in such negotiations and to set forth the methodology the Commission intends to follow in

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exercising its authority under Section 27 7-102 of "An Act concerning public utilities" the Public Utilities Act ("Act") (Ill. Rev. Stat. 1983 1991, ch. 111-2/3, par. 27 7-102)(220 ILCS 5/7-102) with respect to such controverted cases as are brought before it.

(Source: Amended at Ill. Reg. , effective February 1, 1994)

Section 315.20 Preferred Presumptive Pole Attachment Rental Rate Formula

Subject to the provisions of Section 315.30 below, an annual pole attachment rental rate included in a pole attachment agreement between a CATV company and a public-utility regulated entity which is presented to the Commission for consent and approval under Section 27 7-102 of "An Act concerning public utilities" (Ill. Rev. Stat. 1983, ch. 111-2/3, par. 27) the Act shall be presumed to be just and reasonable if shown to be equal to the rate resulting from the following formula:

$$\text{Rental Rate} = .333 \text{ (Cost per pole)} \times (\text{CATV Space}) \times (\text{Carrying Charge})$$

(Total Usable Space)

Where:

a) "Cost per Pole" shall be the utility's regulated entity's book investment in 25 foot-wooden all bare distribution poles included in the electric utility Account 364 or telephone-utility telecommunications carrier Account 241 2411 at the most recent December 31, divided by the equivalent number of 35-foot-wooden distribution poles included in the account at such date. If the book investment for "bare" poles is not ascertainable, then a deduction of 30% shall be made to reflect attachments (i.e., crossarms) not used by CATV. This 30% deduction from pole investment may be rebutted by a statistically reliable survey to the contrary.

b) "CATV Space" shall be 1.0 foot 1-5 feet, representing an allocation to the CATV company of 1 foot of the useful space for the CATV attachments and 6 inches of the neutral space on a joint use pole used by electric utilities and communication utilities telecommunications carriers.

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c) "Total Usable Space" shall be 10 14 feet of a standard 35 foot-distribution pole in accordance with surveys submitted by both CATV and the regulated entities. This 14-foot presumption for usable space may be rebutted by a statistically reliable survey to the contrary.

d) "Carrying Charge" shall include the sum of the following components determined in the following manner:

1) "Maintenance costs carrying charge" shall be the maintenance expense attributed to the maintenance of the poles and other associated equipment set forth in the respective electric utility Account 364 593 or telephone-utility telecommunications carrier Account 241 641 as recorded in the books of accounts for the most recently completed calendar year divided by the respective cost of plant recorded in such plant account for the most recently completed calendar year.

2) "Administrative and general costs carrying charge" shall be calculated as the sum of the expenses recorded in the electric utility Accounts 920, 921, 923, 924, 925, 926, 927, 928, 929, 930, 931 and 935 (subtracting the credit in Account 922) through 932 or telephone-utility telecommunications carrier Accounts 6110 through 6124, 6510 through 6565, 6610 through 6623 and 6710 through 6790 (excluding depreciation account 6660 through 6669), and through 677 for the most recent completed calendar year, divided by the investment in electric utility or telephone-utility telecommunications carrier plant in-service (including amounts unclassified and allocated common plant, if any) at the most recently completed calendar year.

3) "Depreciation expense carrying charge" shall be the annual depreciation rate applied to electric utility Account 364 or telephone-utility telecommunications carrier Account 241 2411, expressed as a decimal, for the most recently completed calendar year.

4) "Taxes other than income taxes carrying charge" shall be calculated using a methodology which reasonably develops the expense for such taxes of invested-capital tax and real estate tax for the most recently completed calendar year for which

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figures are available attributable to the ownership of the facilities recorded in electric utility Account 364 or telecommunications carrier Account 241 2411, divided by the book cost of such plant. Taxes do not include any estimated or anticipated taxes but only those which have accrued.

- 5) "Return and income taxes carrying charge" shall be determined by the utility regulated entity by considering the rates of return currently being permitted on depreciated original cost rate bases as allowed by the Commission in the respective utility's most recent rate case. With said rate of return so determined, the return and income tax carrying charge shall be computed as follows:

$$RIT = \frac{r}{1.0 - f - s + fs} \times \frac{DOC}{OC}$$

Where:

- A) "RIT" is the return and income tax carrying charge;
- B) "r" is the rate of return expressed as a decimal;
- C) "f" is the effective federal income tax rate as incurred charged by the utility regulated entity in the most recently completed calendar year expressed as a decimal;
- D) "s" is the effective state income tax rate as incurred charged by the utility regulated entity in the most recently completed calendar year, expressed as a decimal;
- E) "DOC" is the depreciated original cost of the pole account as of the end of the most recent calendar year;
- F) "OC" is the original cost of the pole account, as of the end of the most recent calendar year.

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- e) The electric accounts mentioned in this Section are those required to be maintained by 83 Ill. Adm. Code 415. The telephone telecommunications accounts mentioned in this Section are those required to be maintained by 83 Ill. Adm. Code 710.

(Source: Amended at Ill. Reg. , effective February 1, 1994)

Section 315.30 Procedure

- a) Where a pole attachment agreement is not exempt pursuant to 83 Ill. Adm. Code 105 and 710 (formerly the Commission's General Orders 175 and 199), so that consent and approval of the Commission is required by Section 27 of "An Act concerning public utilities" (Ill. Rev. Stat. 1983, ch. 111-2/3, par. 27), and where the parties thereto have agreed to the annual rental rate specified in such agreement, the utility's petition for consent to and approval of the agreement shall be accompanied by verified statements of concurrence as to the rate, signed by a representative of each party. In such cases, no showing shall be required that the rental rate is equal to the rate resulting from the formula set forth in Section 315.20 hereof.

- b) Where a pole attachment agreement is not exempt pursuant to 83 Ill. Adm. Code 105 and 710 (formerly the Commission's General Orders 175 and 199), so that consent and approval of the Commission is required by Section 27 of "An Act concerning public utilities" (Ill. Rev. Stat. 1983, ch. 111-2/3, par. 27), and where the parties thereto have not agreed to an annual rental rate, the utility's petition for consent to and approval of the agreement shall be accompanied by an exhibit or exhibits showing that the rental rate proposed by the utility is equal to the rate resulting from the formula set forth in Section 315.20 hereof, or if there is a deviation from the formula, a statement explaining any deviations therefrom. Commission decisions under this Part shall be governed by the following standard: Costs will be assessed on a fully allocated basis so that neither the CAPV company nor the public utility subsidizes the operations of the other. In determining whether to approve deviations from the formula set forth in Section

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~~315.20, the Commission shall first consider the benefits to be derived by each party to the agreement, and then determine whether charges have been apportioned in accordance with those benefits.~~

e) ~~Where a pole attachment agreement provides that the annual rental rate shall be adjusted each year based on the most recent data applied in accordance with the formula set forth in Section 315.20 hereof, the consent and approval of the Commission to the rental rate resulting from such annual adjustment shall be required.~~

a) ~~Where consent and approval of the Commission to a pole attachment or conduit agreement is required by Section 7-102 of the Act and the parties thereto have agreed to the annual rate specified in such agreement, the regulated entity's petition for consent to and approval of the agreement shall be accompanied by verified statements of concurrence as to the rate, signed by a representative of each party. Such concurrence will be sufficient proof that the rate provided therein is just and reasonable.~~

b) ~~Where consent and approval of the Commission to a pole attachment agreement is required by Section 7-102 of the Act and the parties thereto have not agreed to an annual pole attachment rental rate, the regulated entity's petition for consent to and approval of the agreement shall be accompanied by an exhibit or exhibits showing that the rate proposed by the utility is equal to the rate resulting from the formula set forth in Section 315.20 or if there is a deviation from the formula, a statement explaining any deviations therefrom. No such exhibit need be filed if a concurrence such as that described above is filed. A rate equal to the rate resulting from the formula set forth in Section 315.20 shall be presumed just and reasonable. The burden of proving such a rate unjust or unreasonable shall be on the party objecting to such rate.~~

(Source: Amended at Ill. Reg. , effective February 1, 1994)

Section 315.40 Pole Inspections

~~After the "post-construction" inspection, further inspection of CATV pole plant, at CATV's cost, is prohibited except where the regulated entity submits to the CATV operator a statistically reliable survey evidencing the fact that the CATV operator has~~

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~~failed to report more than 5% of his attachments or is in non-compliance on 5% or more of the poles to which it is attached. The CATV operator shall be allowed 30 days to rebut said survey. If the surveys are in conflict, the Commission shall decide any dispute on petition of either party. Thereafter, if a survey is conducted, the CATV operator shall be required to pay the cost of same if the survey is borne out (more than 5% failure to report rate is shown or more than 5% non-compliance is found), provided that any non-compliance is not caused by the regulated entity.~~

(Source: Added at Ill. Reg. , effective February 1, 1994)

Section 315.50 Make-Ready Work

~~Detailed itemization for make-ready work shall be provided to each CATV operator with each billing for make-ready work. This itemization shall be provided for each pole. At a minimum, this itemization shall include:~~

a) ~~dates of work;~~

b) ~~location of work;~~

c) ~~labor cost per hour and persons employed; and~~

d) ~~materials used and cost of materials.~~

(Source: Added at Ill. Reg. , effective February 1, 1994)

Section 315.60 Indemnification

~~CATV operators cannot be required in any pole attachment agreements to indemnify the electric utilities or telecommunications carriers from the negligence of electric utilities or telecommunications carriers.~~

(Source: Added at Ill. Reg. , effective February 1, 1994)

Section 315.70 Prospective Application

~~Contracts concerning the subject matter of this Part approved by the Commission before February 1, 1994 need not be amended to comply with the requirements of this Part.~~

(Source: Added at Ill. Reg. , effective February 1, 1994)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

1) Heading of Part: Life Reinsurance Agreements

2) Code Citation: 50 Ill. Adm. Code 1103

3) Section Number: Adopted Action:

1103.10	New Section
1103.20	New Section
1103.30	New Section
1103.40	New Section
1103.50	New Section
1103.EXHIBIT A	New Section

4) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1991, ch. 73, par. 1013) [215 ILCS 5/401].

5) Effective Date of Rule: January 5, 1994

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) Date filed in Agency's Principal Office: January 5, 1994

9) Notice of Proposal Published in Illinois Register:

June 11, 1993, 17 Ill. Reg. 8411

10) Has JCAR issued a Statement of Objections to this rule? No

11) Difference(s) between proposal and final version:

a) Section 1103.10(b)(1) - On the third line, the second statutory reference to "5/" has been deleted.

b) Section 1103.30(a)(7)(B)(i) - On the first line, the formula has been placed in brackets. On the second line the reference has been corrected from "Line 7" to "Line 16, Column 7".

c) Section 1103.30(a)(7)(B)(ii) - On the second line, the formula has been placed in brackets.

d) Section 1103.30(a)(7)(B)(iii) - The formulas have been placed in brackets.

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e) Section 1103.30(a)(11) - On the sixth line, the word "expenses" has been changed to "exercise".

f) Section 1103.30 (b)(2) - One the seventh line, the comma has been deleted. On the tenth line, a comma has been added following the parenthesis.

g) Section 1103.50 - On the third line, following the word "agreements" the following text has been added "entered into prior to the effective date of this Part". Also, on the second to the last line, the word "proceeding" has been changed to "preceding".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of rulemaking: This Part establishes standards for surplus relief reinsurance treaties that must be met in order to obtain the desired accounting treatment. The standards deal with maintaining an appropriate transfer of risk given the risk characteristics of the underlying insurance policies.

16) Information and questions regarding this adopted rule shall be directed to:

Larry Gorski, Life Actuary
Department of Insurance
320 West Washington
Springfield, Illinois 62767

The full text of the Adopted Rule begins on the next page.

DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER 0: REINSURANCE

PART 1103
LIFE REINSURANCE AGREEMENTS

Section	
1103.10	Preamble
1103.20	Scope
1103.30	Accounting Requirements
1103.40	Written Agreements
1103.50	Existing Agreements
1103.EXHIBIT A	Risk Category

AUTHORITY: Implementing and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1991, ch. 73, par. 1013) [215 ILCS 5/401].

SOURCE: Adopted at 18 Ill. Reg. _____, effective January 5, 1994.

Section 1103.10 Preamble

- a) The Illinois Insurance Department recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.
- b) However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 1103.30 would violate:

- 1) Section 133 and 136 of the Illinois Insurance Code, hereafter the "Code" (Ill. Rev. Stat. 1991, ch. 73, pars. 745 and 748) [215 ILCS 5/133 and 136], relating to financial statements which do not properly

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reflect the financial condition of the ceding insurer;

- 2) Section 173.2 of the Code (Ill. Rev. Stat. 1991, ch. 73, par. 785.2) [215 ILCS 5/173.2], relating to reinsurance reserve credits, thus resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and
- 3) Section 188 of the Code (Ill. Rev. Stat. 1991, ch. 73, par. 800) [215 ILCS 5/800], relating to creating a situation that may be hazardous to policyholders and the people of this State.

Section 1103.20 Scope

This Part shall apply to all domestic life, accident and health insurers and to all other licensed life and health insurers who are not subject to the same regulation in their domiciliary state. This Part shall also apply to licensed property and casualty insurers with respect to their accident and health business. This Part shall not apply to assumption reinsurance, yearly renewable term reinsurance, or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

Section 1103.30 Accounting Requirements

- a) No insurer subject to this Part shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:
 - 1) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall, using assumptions equal to the applicable statutory reserve bases on the business reinsured. Those expenses include commissions, premium taxes and direct expenses including but not limited to billing, valuation, claims and maintenance expected by the company at the time the business is reinsured.

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- 2) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, including but not limited to modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus;
- 3) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary terminations of in-force reinsurance by ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;
- 4) The ceding insurer shall, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;
- 5) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company;
- 6) The treaty does not transfer all of the significant risk inherent in the business being reinsured.

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- Exhibit A of this Part identifies for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with Exhibit A;
- 7) Requirements concerning credit quality, reinvestment or disintermediation risk.
 - A) The credit quality, reinvestment or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in subsection (a)(7)(B) below) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust account or escrow account or otherwise establish a mechanism which segregates, by contract or contract provision, the underlying assets.
 - B) Notwithstanding the requirements of subsection (7)(A) above, the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets; Health Insurance LTC/LTD, Traditional Non-Par Permanent, Traditional Par Permanent, Adjustable Premium Permanent, Indeterminate Premium Permanent, Universal Life Fixed Premium (no dump-in premiums allowed). The associated formula for determining the reserve interest rate adjustment shall use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG)}{(X + Y - I - CG)}$$

- i) I is the net investment income [(Exhibit 2, Line 16, Column 7 of the Life, Accident and Health Annual Statement) and (Underwriting

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and Investment Exhibit Part 1, Line 15 of the Fire and Casualty Annual Statement))

- ii) CG is capital gains less capital losses [(Exhibit 4, Line 10, Column 6 of the Life, Accident and Health Annual Statement) and (Part 1A, Line 10, Column 7 of the Fire and Casualty Annual Statement)]

- iii) X is the current year cash and invested assets [(Page 2, Column 1, Line 10A of the Life, Accident and Health Annual Statement) and (Page 2, Column 1, Line 8A of the Fire and Casualty Annual Statement)] plus investment income due and accrued [(Page 2, Column 1, Line 16 of the Life, Accident and Health Annual Statement) and (Page 2, Column 1, Line 15, of the Fire and Casualty Annual Statement)] less borrowed money [(Page 3, Column 1, Line 22 of the Life, Accident and Health Annual Statement) and (Page 3, Column 1, Line 7 plus Line 8 of the Fire and Casualty Annual Statement)]

- iv) Y is the same as X but for the prior year

- 8) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date;

- 9) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured;

- 10) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured;

- 11) The amount of the total admitted assets of the ceding insurance company less the amount of all funds withheld by any reinsurer as a result of all reinsurance treaties is less than the total gross amount available to policyholders either through the exercise of policy cash surrender or loan provisions;

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- 12) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding company typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, the remaining liability to the ceding insurer remains basically unchanged.

- b) Requirements for reinsurance of in-force business.

- 1) Agreements entered into after the effective date of this Part along with any subsequent amendments thereto, which involve the reinsurance of business issued prior to the effective date of the agreements or amendments thereto must meet the requirements of Section 174 of the Illinois Insurance Code (Ill. Rev. Stat. 1991, ch. 73, par. 786) [215 ILCS 5/174]. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this Part and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Department. The actuary shall maintain documentation and be prepared to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this Part.

- 2) Any increase in surplus net of federal income tax resulting from arrangements described in subsection (b)(1) above shall be identified separately on the insurer's statutory financial statements as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account (Page 4, Column 1, Line 46 of the Life, Accident and Health Annual Statement) and (Page 4, Column 1, Line 30 of the Fire and Casualty Annual Statement), and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" (Page 4, Column 1, Line 5, of the Life, Accident and Health Annual Statement) and in the "Miscellaneous Income" (Page 4, Column 1, Line 12, of the Fire and Casualty Annual Statement) as earnings emerge from the business reinsured.

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For example, on the last date of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. \$6.8 million (34% of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations. At the end of the year N + 1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66% of (\$4 million - \$1 million - \$.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

Section 1103.40 Written Agreements

- a) No reinsurance agreement or amendment to any agreement shall be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.
- b) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

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- c) The reinsurance agreement shall contain provisions which provide:
 - 1) That the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and
 - 2) Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

Section 1103.50 Existing Agreements

Insurers subject to this Part shall reduce to zero by December 31, 1994 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this Part which, under the provisions of this Part would not be entitled to recognition of such reserve credits or established assets provided, however, that such reinsurance agreements shall have been in compliance with the laws and regulations in existence immediately preceding the effective date of this Part.

Section 1103.Exhibit A Risk Category

Risk Categories:

- a) Morbidity
 - b) Mortality
 - c) Lapse
 - d) Credit Quality (C1)
- This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

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e) Reinvestment (C3)

This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

f) Disintermediation (C3)

This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

Risk Category	a	b	c	d	e	f
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+

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Indeterminate Premium Permanent	0	+	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+	+

+ - Significant

0 - Insignificant

*LTC = Long-Term Care Insurance

LTD = Long-Term Disability Insurance

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Numbers: Adopted Action:
- | | |
|--------|-----------|
| 160.5 | Amendment |
| 160.65 | Amendment |
| 160.70 | Amendment |
- 4) Statutory Authority: Sections 4-1.7, 10-1 et seq., 12-4.3, and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-1.7, 10-1 et seq., 12-4.3 and 12-13) [305 ILCS 5/4-1.7, 10-1, 12-4.3 and 12-13]
- 5) Effective Date of Amendments: January 10, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 10, 1994
- 9) Notice of Proposal Published in Illinois Register:
- Sections 160.5 and 160.70
- August 6, 1993 (17 Ill. Reg. 12573)
- Section 160.65
- July 30, 1993 (17 Ill. Reg. 12067)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made to the text in the proposed amendments:
- The labels included in the definition in Section 160.5 - "Initial receipt in the State" were deleted.
- Also, amendments which were adopted October 18, 1993 have been incorporated.
- No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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- 13) Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes
- | | | |
|-----------------|------------------------|---|
| <u>Sections</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
| 160.60 | Amendment | January 14, 1994 (18 Ill. Reg. 497) |
| 160.70 | Amendment | September 24, 1993 (17 Ill. Reg. 15229) |
| 160.75 | Amendment | December 31, 1993 (17 Ill. Reg. 22269) |
- 15) Summary and Purpose of Amendments:
- Sections 160.5 and 160.70
- Two errors in the adoption of amendments to the Department's rules governing child support enforcement are being corrected in these proposed amendments. In two different sets of amendments to these rules the Department failed to include changes which were adopted effective November 9, 1990. These earlier changes were published at 14 Ill. Reg. 18759.
- Section 160.65
- These proposed amendments implement the requirements of section 103(c) of the Family Support Act of 1988 (P.L. 100-485) codified at 42 USC §666(a)(10)(B) and (C) which are effective October 13, 1993. Section 103(c) requires periodic review of child support orders and adjustment, as appropriate, in accordance with the Department guidelines for support award amounts.
- This rulemaking implements the requirement that the Department have a process under which child support orders in IV-D cases are, with certain exceptions, periodically reviewed not later than 36 months after the establishment of the order or the most recent review, and adjusted, as appropriate, in accordance with Department guidelines. These proposed amendments also implement the requirement that the Department notify each parent subject to a child support order, being enforced under Title IV-D, of the right to request a review of the order. In addition, these proposed amendments include the addition of the definition of "order for support", "order for withholding", "assignment of support", assignment of medical support", "health insurance", "review" and "Quantitative Standard for Review."
- Review and Modification of Support Orders
- Beginning October 13, 1993, as the result of these proposed amendments, the Department will review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:

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- a) In a case in which there is an assignment of support or an assignment of medical support, the Department determines that a review would not be in the best interests of the child and neither parent has requested a review; or
- b) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or
- c) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review; or
- d) The order is an administrative order for support entered by the Department pursuant to the registration of another State's order.

Notice of the Right to Request A Review

This rulemaking establishes that in each Title IV-D case the Department will provide a one-time notice to each parent subject to an order for support in the case. The notice will inform the parent of the right to request a review of the order, where to request a review and the information which must accompany a request. The Department will use the broadcast or print media, at least twice a calendar year, to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.

Notice of Review

This rulemaking provides that the Department will notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review. The notice of review will require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice and state that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance the notice shall state that health insurance may be ordered or requested only with the client's consent.

Notice of Review Results

The Department will inform the client and responsible relative of the result of the review and provide a copy of the FRS calculation comparing the responsible relative's current financial ability to the amount of the

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existing order. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.

The November 9, 1990, changes were not included in the later amendments to Section 160.5 which were adopted effective January 20, 1992, and published at 16 Ill. Reg. 1852. In addition, the November 9, 1990, changes were not included in the later amendments to Section 160.70 which were adopted effective January 21, 1991, and published at 15 Ill. Reg. 1034. These inadvertent omissions in both Sections 160.5 and 160.70 are being corrected in these proposed amendments.

The Department does not believe that these corrective amendments will affect the validity of the earlier amendments. Although the earlier amendments were inadvertently omitted from the later adoptions, both the earlier and later amendments were adopted in compliance with the applicable requirements of the Illinois Administrative Procedure Act. Since the later amendments do not indicate any intent to rescind or otherwise change the earlier amendments, the affected public has been appropriately informed of the intended changes.

Although the Department does not believe that there will be any effect, publication of these corrections as proposed amendments will provide an opportunity for any affected individuals or groups to comment on any potential effect of these changes and to indicate any disagreement with the Department's position.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT ENFORCEMENT

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Continue To Receive Child Support Enforcement Services

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SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

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Statement Of Child Support Account Activity

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Department Review Of Distribution Of Child Support For AFDC Recipients

160.160 Department Review Of Distribution Of Child Support For Former AFDC Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, 10-1 et seq., 12-4.3, and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-1.7, 10-1 et seq., 12-4.3 and 12-13) [305 ILCS 5/4-1.7, 10-1, 12-4.3 and 12-13]

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 16 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill.

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Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. _____, effective January 10, 1994.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART A: GENERAL PROVISIONS

Section 160.5 Definitions

"AFDC" refers to the Aid to Families with Dependent Children Program, Title IV-A of the Social Security Act (42 U.S.C. 601 et seq.) that is financial and medical assistance available to families with one or more dependent children or on behalf of dependent children in foster care under the guardianship of the Department of Children and Family Services.

"AFDC MANG" refers to Medical Assistance No Grant cases in which medical assistance only is available to families with one or more dependent children.

"AFDC MANG recipient" refers to a member of a family with one or more dependent children receiving medical assistance only in the current month.

"AFDC recipient" refers to a person who is receiving financial and medical assistance under the AFDC program in the current month.

"Assignment of Medical Support" refers to the transfer of support rights to the Department by the acceptance of AFDC benefits under 42 U.S.C. 1396k and Section 10-1 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 10-1).

"Assignment of support" refers to the transfer of support rights to (1) the Department by the acceptance of AFDC benefits, pursuant to 42 U.S.C. 602(a)(26)(A) and Section 10-1 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 10-1) [305 ILCS 5/10-1] or (2) the Department of Children and Family Services ("DCFS"), in the case of IV-E foster care, pursuant to 42 U.S.C. 671(a)(17) and Section 9.1 of the Children and Family Services Act (Ill. Rev. Stat. 1991, ch. 23, par. 5009.1) [20 ILCS 505/9.1].

"Assistance Standard" shall have the meaning ascribed to it in 89 Ill. Adm. Code 111.

"Cancellation" refers to the discontinuance of AFDC financial and

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Section 160.5 (continued)

medical benefits for an assistance unit because of the failure to satisfy the conditions of eligibility under the Title IV-A State Plan.

"Child support enforcement services" refers to those services provided to establish, enforce and collect support, in accordance with an approved State Plan under Title IV-D of the Social Security Act (42 U.S.C. 654).

"Date of Collection" for distribution purposes in all cases refers to the date on which (a) a payor of income withholds an amount from a responsible relative's wages or other income to meet a support obligation when there is a served order of income withholding, (b) the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation when there is withholding of UIB, or (c) in all other instances, a support payment is received by the Clerk of the Court or the Department, whichever date is earlier.

"Family Support Information System" or "FSIS" refers to the data processing system used to process all IV-D cases in Illinois.

"IV-D account receivable" or "support account" refers to a part of the accounting system in FSIS used to record charges, payments, and account adjustments for a particular account. More than one account may exist for a given caretaker relative and for a given responsible relative. For example, a mother with two children by one father from one marriage, and three children by a second father from another marriage, will have two support accounts if there are two separate support obligations. If children are born in a non-marital relationship, there will be one account per child.

"IV-D program" or "IV-D" refers to the child support program set forth in 42 U.S.C. 651 et seq. and this Part.

"IV-E foster care" or "IV-E" refers to the foster care program set forth in 42 U.S.C. 670 et seq.

"Initial receipt in the State" for disbursement purposes in all cases refers to the date on which the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation, when there is a withholding of UIB, or in all other instances, a support payment is received by the Clerk of the Court or the Department, whichever date is earlier.

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Section 160.5 (continued)

"MAG" refers to Medical Assistance No Grant under the Medicaid Program, Title XIX of the Social Security Act (42 U.S.C. 1396k), that is medical assistance to families and individuals wherein no cash payment is made.

"Responsible relative" refers to a person who is responsible, or alleged to be responsible, under law for support of a dependent.

"Support case" refers to a case established in the FSIS for the purpose of providing establishment, enforcement and collection services to dependent children and their custodial parent, in accordance with the provisions of Title IV-D of the Social Security Act (42 U.S.C. 654).

"Support obligation" refers to the duty a non-custodial relative owes to his or her dependents, as set forth in a legally-valid court or administrative order.

"Unreimbursed AFDC" refers to the total amount of financial assistance provided to a family unit, in accordance with Title IV-A of the Social Security Act (42 U.S.C. 601 et seq.) for which the State and Federal governments have not been reimbursed. The State and Federal governments are limited in the amount of support payments they may retain for "unreimbursed AFDC", in accordance with the provisions set forth in Sections 160.100, 160.110 and 160.130 of this Part. The "amount of unreimbursed assistance accrued prior to the AFDC cancellation", reported in the Department's "Statements of Child Support Account Activity for Former Recipients" (see Section 160.140), is that limited amount which the Department is entitled to retain.

(Source: Amended at 18 Ill. Reg. ____, effective January 10, 1994)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.65 Modification of Support Obligations

a) Definitions

- 1) "Order for support" means any Illinois court or administrative order for child support.
- 2) "Order for withholding" means any Illinois court or administrative order for withholding.

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Section 160.65(a) (continued)

- 3) "Payment received" means any child support payment except intercepts of federal income tax refunds, State Comptroller payments and unemployment insurance benefits.
 - 4) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through automated or manual review, is at least 10% above or below the existing order for support and the change is an amount equal to at least \$5.00 a month.
 - 5) "Automated review" means initial review of financial ability as described in subsection (e) below.
 - 6) "Manual review" means the FSS determination of financial ability as described in subsection (g) below.
 - 7) "Health insurance" means health insurance coverage for the dependent child(ren) for whom support is sought.
 - 8) "Health insurance at reasonable cost" means health insurance coverage available through employment or other group health insurance, regardless of service delivery mechanism.
- b) Programs for Review and Modification of Support Obligations
- 1) The Department shall conduct a demonstration project for the development and evaluation of a process to review and modify orders for support in those cases in which the responsible relative resides in Illinois.
 - A) The locations for the demonstration project are Cook County and the 6th Judicial Circuit (DeWitt, Champaign, Monticue, Piatt, Macon and Douglas Counties).
 - B) The demonstration project shall be conducted through the period ending September 30, 1991.
 - C) Title IV-D cases with existing orders for support which are at least 30 months old as of September 30, 1989 shall be subject to review to determine whether the amount of the court or administrative order should be raised or lowered.
 - D) A one-time random selection of cases subject to review shall be made as follows:

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Section 160.65(b)(1)(D) (continued)

- ii) In Cook County, the experimental group shall consist of 25% of the cases subject to review, and an additional 25% shall be designated as the control group. The remaining 50% of the cases shall not be included in the project.
- iii) In the Sixth Judicial Circuit, the experimental groups shall consist of all cases subject to review. A comparison group shall be comprised of all active IV-D cases in the Sixth Judicial Circuit that had child support modifications during the period October 1, 1988 through December 31, 1989.

E) The Department shall determine, for each project location, the number of cases in which initial reviews will be conducted each month, and shall prioritize the selection of these cases from the experimental groups as follows:

- i) Cases in which the order for support does not require the responsible relative to provide health insurance for the child(ren) covered by the order, an order for withholding has been served on the relative's payor of income and payments pursuant to the order have been received by the Department within the 90 days prior to selection.
- ii) Cases with the same circumstances set forth in subsection (b)(1)(E)(i) above except that payments have not been received by the Department within the 90 days prior to selection.
- iii) Cases in which the order for support requires the responsible relative to provide health insurance for the child(ren) covered by the order, an order for withholding has been served on the relative's payor of income and payments have been received by the Department within the 90 days prior to selection.
- iv) Cases with the same circumstances set forth in subsection (b)(1)(E)(ii) above, except that payments have not been received by the Department within 90 days prior to selection.
- v) Cases in which the responsible relative's payor of income has been identified, but an order for withholding has not been served.

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Section 160.65(b)(1)(E) (continued)

- vi) Cases in which the responsible relative's payor of income has been identified, but an order for withholding has not been entered.
- vii) Cases in which the existing order for support was entered by the court before September 12, 1984, the effective date of the child support guidelines set forth in Section 505 of the Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1989, ch. 40, par. 505).
- viii) Cases in which the amount of current support required under the existing order for support is over zero, but less than \$80 per month.
- ix) Cases in which the oldest child that is covered by the order is between 15 and 17 years of age at the time of the monthly selection.

x) Cases in which the current support amount is zero or the responsible relative's income is unknown.

xi) All other cases in the experimental group.

2) The Department, for the three-year period beginning October 1, 1990 and ending September 30, 1991, shall review all orders for support not included in the demonstration project as described in subsection (b)(1) above. The Department shall proceed as follows:

- A) Select each month all orders which are more than 10 months old since establishment, modification, or the last review whichever occurs last; and
- B) Shall prioritize all orders for support in accordance with subsection (b)(1)(K) above; and
- C) Shall determine for each child support review the number of cases in which initial reviews will be conducted each month. Cases selected for the experimental and control groups in the demonstration project in Cook County as well as the experimental group in the Sixth Judicial Circuit will not be subject to review in accordance with subsection (b)(2) above through the period ending September 30, 1991.

3) Cases selected for the experimental and control groups in the demonstration project in Cook County as well as the experimental group in the Sixth Judicial Circuit will not be subject to review in accordance with subsection (b)(2) above through the period ending September 30, 1991.

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Section 160.65(b)(3) (continued)

- A) The remaining 50% of cases not selected for the Cook County experimental or control group and the comparison cases for the Sixth Judicial Circuit will be subject to review under subsection (b)(2) above.
- B) All cases will be subject to review in accordance with subsection (b)(2) above after September 30, 1991.
- 4) The Department, beginning October 1, 1991, shall review all orders for support no later than 30 months after establishment, modification, or the last review, whichever comes later. The Department shall give priority to existing orders for support that do not include health insurance and that have a high potential to obtain such insurance at reasonable cost by selecting active IV-D cases with the same circumstances set forth in subsection (b)(1)(i) and (ii) above.
- 5) The Department shall review any order for support whenever any change in financial circumstances of the relative becomes known through representations of the relative or of the IV-D client or from independent sources and such change would materially affect ability to support.
- e) Initial Review
 - 1) The Department shall capture all available responsible relative financial information from existing federal and state sources (e.g., Illinois Department of Employment Security) through electronic data searches on all IV-D cases set forth in subsection (b) above.
 - 2) The initial review shall consist of an electronic calculation of the responsible relative's financial ability in accordance with the guidelines set forth in Section 160.60(e) using the information obtained through the data searches provided for in subsection (e)(1) above.
 - d) Notice of Initial Review
 - 1) The Department shall notify each client and responsible relative of the results of the initial review.
 - A) In all IV-D AFDC cases in which the initial review met the Quantitative Standard for Review, the notice shall state that the Department will conduct a further review to verify

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Section 160.65(d)(1)(A) (continued)

- information and determine the responsible relative's current financial ability in accordance with the guidelines as set forth in Section 160.60(e).
- B) In all other IV-D cases in which the initial review met the Quantitative Standard for Review, the notice shall state that the Department will conduct a further review and seek modification only upon request of the client or responsible relative received by the Department within 30 days of the date of the notice.
 - C) In all IV-D cases in which the initial review did not meet the Quantitative Standard for Review, the notice shall state that since modification is not indicated the Department will proceed only upon request of the client or the responsible relative received by the Department within 30 days of the date of the notice.
 - 2) The Department shall include with the notice of initial review results:
 - A) A copy of the electronic calculation of the responsible relative's financial ability, and
 - B) A form financial affidavit.
 - i) In AFDC cases in which the initial review met the Quantitative Standard for Review, a request that the client and responsible relative complete the affidavit and return it to the Department within 30 days of the date of the notice.
 - ii) In all other IV-D cases, a statement that if a further review is being requested, the affidavit must be completed and returned to the Department within 30 days of the date of the notice.
 - 3) The notice to the client and responsible relative shall state that if as a result of further review, action is taken to modify the existing order for support, the Department will order or request the court to order the responsible relative to provide health insurance coverage. However, in cases where the client is not receiving medical assistance the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(e)(7).

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NOTICE OF ADOPTED AMENDMENTS

Section 160.65 (continued)

e) Employer-Contact

- i) The Department shall issue a subpoena duces tecum to the responsible relative's employer at the same time notice of initial review is sent to the client and responsible relative, and whenever a change in the responsible relative's employer becomes known during the course of review. The subpoena shall:

- A) require production of responsible relative employment records with information including, but not limited to:

- i) the period of employment;
- ii) the frequency of wage payments;
- iii) gross wages, net pay and all deductions taken in reaching net pay;
- iv) the number of dependent exemptions claimed by the responsible relative; and

- v) health insurance coverage available to the responsible relative through the employer;

- B) allow, in lieu of producing records, the completion and return of a form response to subpoena duces tecum providing responsible relative employment information;

- C) require employer compliance within 30 days of the date of the subpoena;

- 2) The FSS shall contact the responsible relative's employer by mail or telephone whenever necessary to obtain clarification of employment records or the response to subpoena duces tecum.

f) Initial Actions taken by the Department

- 1) The Department shall notify each client and responsible relative of the results of the initial review at least 30 days prior to the FSS determination of financial ability.

- 2) Each client and responsible relative shall be advised of the right to request a review.

- 3) All cases will be reviewed upon the request of either the client or responsible relative.

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NOTICE OF ADOPTED AMENDMENTS

Section 160.65(f) (continued)

- 4) All APDC cases will be reviewed without the request of either the client or responsible relative except in cases when it is not in the best interests of the child(ren).

- 5) Each client and responsible relative shall be advised of the right to contest the results of the FSS determination at least 30 days prior to the date the modification or the decision not to modify becomes final.

g) FSS Determination of Financial Ability

- i) The FSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer wage stubs or income tax returns, the FSS shall seek other verification, e.g., subpoena of the responsible relative's income tax returns.

- 2) The FSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(e).

- 3) The FSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.

h) Notice of FSS Determination of Financial Ability

The Department shall inform the client and responsible relative of the results of the FSS determination and provide a copy of the calculation. The client and responsible relative will be advised whether the Department will proceed or seek to modify the existing order for support and of the right to contest the determination.

- 1) When the FSS determination of current financial ability indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:

- A) The Department will not proceed to modify the order for support.

- B) Either party may request a redetermination within 30 days of the date of the notice by:

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Section 160.65(h)(1)(A) (continued)

- i) signing and returning the request for a redetermination to the Department; and
 - ii) providing financial documentation not furnished previously which will substantiate the request.
- 2) When the FSS determination of current financial ability indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:
- A) The Department will proceed to modify the existing order for support in accordance with the FSS determination.
 - B) In cases involving the judicial process, each party will be informed 30 days in advance of the hearing date and will have the opportunity to contest the FSS determination at that time.
 - C) In cases where an administrative order for support is entered in accordance with subsection (i) below:
 - i) The client will be advised of the right to request a redetermination within 30 days of the date of mailing of the notice and administrative order for support by signing and returning the request for redetermination to the Department and providing financial documentation not furnished previously which will substantiate the request.
 - ii) The responsible relative will be advised that he has 30 days from the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102.
 - iii) Where the client requests a redetermination and the responsible relative requests a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The client shall be advised further of the right to present evidence at the hearing.
 - iv) Where the responsible relative requests a hearing and the client does not request a redetermination, the client shall be advised further of the right to present evidence at the hearing.

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Section 160.65(h)(2)(C) (continued)

- v) Where the client requests a redetermination and the responsible relative does not request a hearing, any change shall result in or have the effect of the issuance of a new administrative order for support. The responsible relative shall be advised further of the right to request a hearing and the client of the right to present evidence at the hearing.
- 3) For purposes of calculating the 30-day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the FSS determination of financial ability, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.
- i) Further Actions Taken by the Department
 - 1) The Department shall take the following action when the FSS has determined in accordance with subsection (g) above that the Quantitative Standard for Review has been met:
 - A) In a case involving an order for support entered by the court, the FSS shall:
 - i) prepare a petition to modify and obtain or affix appropriate signature thereto;
 - ii) refer the case for legal action to modify child support pursuant to Section 510 of the Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1989, ch. 40, par. 510); and
 - iii) provide the client and responsible relative with the notice described in subsection (h)(2)(B) above.
 - B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this rule, the FSS shall enter an administrative order for support incorporating the responsible relative's current financial ability as the new support amount and containing the information specified in Section 160.60(d)(5).
 - i) The FSS shall also enter an administrative order for withholding in accordance with Section 160.60(d)(6).

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Section 160.65(i)(1)(B) (continued)

- 1) The FSS shall provide to the client and responsible relative copies of the administrative order for support and for withholding together with the notice described in subsection (h)(2)(C) above.
- 2) In IV-D cases where the client is neither an applicant for nor a recipient of medical assistance, the Department, with the client's consent, shall enter or request the court to enter a support order requiring the relative to provide health insurance.
- 3) Upon receipt of a petition for a release from modification of an administrative order for support as described in subsection (h)(2)(C)(i) within 30 days of the mailing of such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30-day period shall be calculated in accordance with subsection (h)(3) above.
- 4) Upon receipt of a request for a redetermination as set forth in subsections (h)(1)(B) and (h)(2)(C)(i) within 30 days of the mailing of the notice, the Department shall conduct such redetermination. The 30-day period shall be calculated in accordance with subsection (h)(3) above.

a) Definitions

- 1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.
- 2) "Order for withholding" means any court or administrative order for a payor to withhold a part of a responsible relative's income for payment of child support.
- 3) "Assignment of support" has the meaning set forth in Section 160.5.
- 4) "Assignment of medical support" has the meaning set forth in Section 160.5.
- 5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.
- 6) "Review" means the FSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) below.

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Section 160.65(a) (continued)

- 7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20% above or below the existing order for support and the change is an amount equal to at least \$10.00 a month.
- b) Review and Modification of Support Orders
- 1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:
- A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) below, that a review would not be in the best interests of the child and neither parent has requested a review; or
- B) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or
- C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review; or
- D) The order is an administrative order for support entered by the Department pursuant to registration of another State's order under Section 160.60(d)(4).
- 2) Prior to the expiration of the 36 month period:
- A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order if:
- 1) an order for withholding has been served on the responsible relative's payor, and payments have been received by the Department within the 90 days prior to selection for review; and
- 1) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and

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NOTICE OF ADOPTED AMENDMENTS

Section 160.65(b)(2)(A) (continued)

iii) the Department has not determined that a review would not be in the best interests of the child.

B) The Department, in a case in which there is no assignment of support or assignment of medical support, shall review orders as set forth in subsection (b)(2)(A), but only with the consent of the client.

C) The Department may review any order for support, unless it has determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.

3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

c) Notice of the Right to Request a Review

1) In each Title IV-D case the Department shall provide a one-time notice to each parent subject to an order for support in the case. The notice shall inform the parent of the right to request a review of the order, where to request a review and the information which must accompany a request.

2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.

d) Notice of Review

1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.

2) The notice of review shall:

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Section 160.65(d)(2) (continued)

A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and

B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).

e) Information Gathering and Employer Contact

1) The Department shall capture all available responsible relative financial information from existing federal and State sources (e.g. Illinois Department of Employment Security) through electronic data searches on all IV-D cases.

2) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after the relative receives the notice of review, the Department shall send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code (305 ILCS 5/10-3.1). The notice shall:

A) require the disclosure of responsible relative employment information, including but not limited to:

- i) the period of employment;
- ii) the frequency of wage payments;
- iii) gross wages, net pay and all deductions taken in reaching net pay;
- iv) the number of dependent exemptions claimed by the responsible relative; and
- v) health insurance coverage available to the responsible relative through the employer.

B) require employer compliance within 15 calendar days after the employer's receipt of the notice.

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Section 160.65(e) (continued)

- 3) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department shall use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.

f) Review of the Order for Support

- 1) The FSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the FSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.
- 2) The FSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).
- 3) The FSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.
- 4) The FSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the FSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.

g) Notice of Review Results

The Department shall inform the client and responsible relative of the results of the review and provide a copy of the FSS calculation comparing the responsible relative's current financial ability to the amount of the existing order. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.

- 1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:

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Section 160.65(g)(1) (continued)

- A) The Department will not take action to modify the order for support; or
- B) The Department will only take action to modify the order to require health insurance for the child covered by the order.
- C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:
 - i) signing and returning the request for a redetermination to the Department; and
 - ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request.

2)

When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:

- A) The Department will take action to modify the existing order for support in accordance with the review results.
- B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.
- C) In cases where an administrative order for support is entered in accordance with subsection (h) below:
 - i) The client will be advised of the right to request a redetermination within 30 calendar days after the date of mailing of the notice and administrative order for support by signing and returning the request for redetermination to the Department and providing financial documentation or information concerning the child's health care needs not furnished previously which will substantiate the request.
 - ii) The responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102.

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Section 160.65(g)(2)(C) (continued)

- iii) Where the client requests a redetermination and the responsible relative requests a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The client shall be advised further of the right to present evidence at the hearing.
- iv) Where the responsible relative requests a hearing and the client does not request a redetermination, the client shall be advised further of the right to present evidence at the hearing.
- v) Where the client requests a redetermination and the responsible relative does not request a hearing, any change shall result in, or have the effect of, the issuance of a new administrative order for support. The responsible relative shall be advised further of the right to request a hearing and the client of the right to present evidence at the hearing.
- 3) For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.

h) Further Actions Taken by the Department

- 1) The Department shall take the following action when the FSS has determined in accordance with subsection (f) above that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:
 - A) In a case involving an order for support entered by the court, the FSS shall:
 - i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
 - ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois

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Section 160.65(h)(1)(A)(ii) (continued)

Marriage and Dissolution of Marriage Act (750 ILCS 5/510); and

- iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) above.
- B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this rule, the FSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).
 - i) The FSS shall also enter an administrative order for withholding in accordance with Section 160.60(d)(6).
 - ii) The FSS shall provide to the client and responsible relative copies of the administrative orders for support and for withholding together with the notice described in subsection (g)(2)(C) above.
- 2) In IV-D cases where the client is neither an applicant for nor a recipient of medical assistance, the Department, with the client's consent, shall enter or request the court to enter an order for support requiring the responsible relative to provide health insurance.
- 3) Upon receipt of a petition for a release from or modification of an administrative order for support as described in subsection (g)(2)(C)(ii) within 30 calendar days after the date of mailing of such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.
- 4) Upon receipt of a request for a redetermination as set forth in subsections (g)(1)(C) and (g)(2)(C)(i) within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.
- i) Timeframes for Review and Modification
 - 1) In any case in which there is an assignment of support or an

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Section 160.65(i)(1) (continued)

assignment of medical support, the Department shall determine within 15 calendar days of October 13, 1993 or the date the order is 36 months old, whichever is later, whether a review should be conducted as provided in subsection (b)(1) above.

- 2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of medical support shall be made by the Department in accordance with subsection (b)(1) above, at 36 month intervals based upon:

- A) the date the order for support was modified; or
- B) the date an order was entered determining that the order for support would not be modified; or
- C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.

- 3) Within 15 calendar days of receipt of a request for a review, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) above.

- 4) Within 180 calendar days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:

- A) send the notice of review in accordance with subsection (d) above;
- B) conduct a review of the order in accordance with subsection (f) above;
- C) send the notice of review results in accordance with subsection (g) above; and
- D) conclude any action to modify the order for support.

j) Interstate Review and Modification

1) Initiating Cases

- A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days of October 13, 1993, or

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Section 160.65(j)(1)(A) (continued)

the date the order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another State.

- B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) above, at 36 month intervals based upon:

- i) the date the order for support was modified; or
- ii) the date an order was entered determining that the order for support would not be modified; or
- iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.

- C) Within 15 calendar days of receipt of a request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another State.

- D) Prior to the expiration of the 36 month period the Department:

- i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) above; and

- ii) may review or request another State to review an order for support as provided in subsection (b)(2)(C).

- E) The Department shall determine in which State a review should be conducted after considering all relevant factors, including but not limited to:

- i) the location of existing order(s);
- ii) the present residence of each party; and
- iii) whether a particular State has jurisdiction over the parties.

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Section 160.65(j)(1) (continued)

F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) above, in which the Department has determined to request a review of an order for support in another State, the Department shall:

- i) send a request for review to that State within 20 calendar days of receipt of sufficient information to conduct the review and provide that State with sufficient information on the requestor of review to act on the request; and

- ii) send to the parent in Illinois, a copy of any notice issued by the responding State in connection with the review and modification of the order, within 5 working days of receipt of such notice by the Department.

2) Responding Cases

A) Within 15 calendar days of receipt of a request for a review of an order for support in Illinois as the responding State, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1).

B) Within 180 calendar days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) above.

(Source: Amended at 18 Ill. Reg. —, effective January 10, 1994)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

a) Definitions

The definitions contained in Section 160.60(a) are incorporated herein by reference.

b) Income Withholding

Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall

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Section 160.70(b) (continued)

follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure (Ill. Rev. Stat. 1989 1991, ch. 110, par. 2-1403) [735 ILCS 5/2-1403].

c) Federal and State Income Tax Refunds and Other State Payments

- 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other State payments (see Section 10.05a of the State Comptroller Act (Ill. Rev. Stat. 1989 1991, ch. 15, par. 210.05a) [15 ILCS 405/10.05a] due such relatives.

- 2) The Department shall submit past-due support amounts to:

- A) the Department of Health and Human Services to intercept federal income tax refunds in accordance with federal instructions as follows:
 - i) in IV-D AFDC and IV-D IV-E foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150 which has been in arrears for 3 months or longer; and
 - ii) in IV-D Non-AFDC cases, past-due support owed to or for a minor child in an amount not less than \$500.
- B) the Comptroller to intercept State income tax refunds and other State payments as follows:
 - i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$150, whichever is less; and
 - ii) in inactive IV-D AFDC and IV-D IV-E foster care cases, past due support owed in any amount.
 - iii) In cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability,

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Section 160.70(c)(2)(B)(iii) (continued)

retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:

- A) the IV-D case name and identification number;
- B) the past-due support amount which will be submitted for intercept;

- C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:

- i) a redetermination by the Department or, after such redetermination,
- ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept is based, at the request of the responsible relative; and
- D) that the Internal Revenue Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

- 4) A request for a redetermination made within 30 days from the date of mailing of the advance notice shall stay the Department from submitting the past due amount.

- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:

- A) a hearing by the Department within 30 days from the date of mailing of the notice; or

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Section 160.70(c)(5)(A) (continued)

- B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept is based.

- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within 10 days of the responsible relative's request. The Department shall be bound by the decision of the state with the order.

- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

- 8) The Department shall notify:

- A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
- B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept, in accordance with federal instructions;
- C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
- D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

- 9) The Department shall:

- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
- B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate

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Section 160.70(c)(9)(B) (continued)

net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection only against the past due support amount specified in the advance notice provided the responsible relative pursuant to subsection (e)(3) above and shall promptly apply:

A) federal income tax refunds first to satisfy any IV-D AFDC or IV-D foster care assigned past due support and then to satisfy any IV-D Non-AFDC past due support; and

B) State income tax refunds and other State payments to satisfy any active IV-D AFDC and IV-D foster care assigned past due support, or first to satisfy active IV-D Non-AFDC past due support and then to satisfy any IV-D AFDC and IV-D foster care assigned past due support.

11) 10) The Department shall inform individuals who receive IV-D Non-AFDC support enforcement services, in advance, of the following:

A) amounts intercepted under this subsection will be applied in accordance with subsection (e)(9) above Section 160.130;

B) any payment received by the IV-D Non-AFDC individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

d) Unemployment Insurance Benefits

1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past due support amount equal to a one month support obligation.

2) The Department shall take the following action:

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Section 160.70(d)(2) (continued)

A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.

B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.

C) establish the amount to be deducted by data entry to DES's computer file, which amount shall be the lesser of:

i) the amount of the income withholding order; or

ii) fifty percent (50%) of the Unemployment Insurance Benefit.

D) receive amounts deducted direct from DES.

E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

F) post each collection to the Department's payment record.

G) apply each collection to the current support obligation, then to past-due obligations.

H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.

3) The Department of Employment Security shall take the following action:

A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.

B) pay all amounts deducted direct to the Department.

e) Contempt of Court and Other Legal Proceedings

1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal

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Section 160.70(e)(1) (continued)

proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation; except as set forth in subsection (2) below.

2) Contempt proceedings shall not be used in the following instances:

- A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;
 - iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated making such action unproductive.
- B) other legal or administrative remedies are more appropriate under the circumstances.

3) Contempt and other legal proceedings shall be used to:

- A) establish the amount of past-due support;
- B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;
- C) secure an order for lump sum or periodic payment of the past-due support or judgment;
- D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;

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Section 160.70(e)(3) (continued)

- E) obtain full or partial payment of past due support through incarceration;
 - F) ascertain the responsible relative's source and amount of income or location and value of assets;
 - G) secure other enforcement relief; and
 - H) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving AFDC in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989 1991, ch. 23, par. 9-6) [305 ILCS 5/9-6].

f) Liens Against Real Estate and Personal Property

- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure (Ill. Rev. Stat. 1989 1991, ch. 110, par. 12-101 et seq.) [135 ILCS 5/12-101 et seq.].
- 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount equals one year's support obligation under the order for support or \$2,000, whichever is less; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

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Section 160.70(f) (continued)

- 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure (Ill. Rev. Stat. 1989 1991, ch. 110, pars. 12-101 et seq.)) [735 ILCS 5/12-101 et seq.].
 - 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure (Ill. Rev. Stat. 1989 1991, ch. 110, pars. 12-101 et seq.)) [735 ILCS 5/12-101 et seq.] when the relative has a known equity which is not less than \$2,000 in excess of any statutory exemption.
- g) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (2) and (3) below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989 1991, ch. 23, par. 10-17.4) [305 ILCS 5/10-17.4].
 - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
 - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- h) Past-Due Support Information to Consumer Reporting Agencies

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Section 160.70(h) (continued)

- 1) The Department shall, upon request of consumer reporting agencies, provide the following information concerning the payment records of responsible relatives in IV-D cases to such agencies when the amount of past-due support exceeds \$1,000:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support which has accumulated under the order for support.
- 2) The Department shall provide the responsible relative with a notice at least 30 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be reported;
 - C) the date past-due support will be reported; and
 - D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 30 days from the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
 - A) a request for
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

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Section 160.70(h)(5) (continued)

- B) payment in full of the amount of the past-due support stated in the
- i) advance notice; or
 - ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

i) Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 18 Ill. Reg. ___, effective January 10, 1994)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Numbers:
397.1010
397.1020

Adopted Action:
Amend
Amend

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].

5) Effective date of rules: January 11, 1994

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: January 6, 1994

9) Notice of proposal published in Illinois Register:

August 20, 1993, 17 Ill. Reg. 13686

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

The statutory citations have been corrected to replace "et seq." with "through 111" in the Authority Note.

The volume number of the Illinois Register has been updated to "18".

Section 397.1020(e) is new language.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received; JCAR's comments are nonsubstantive

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 397 and updates statutory citations to reference the Illinois Compiled Statutes.

DEPARTMENT OF TRANSPORTATION
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Section 397.1010(c) is amended to correct a cross reference to the agricultural exception contained in 92 Ill. Adm. Code 171.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 397
DRIVING AND PARKING

Section	
397.1000	General
397.1010	Application
397.1020	Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat., 1989, ch. 95, 1-2, pars. 700-4(a) and 700-9(a)) 18b-100 through 111 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. _____, effective January 11, 1994.

Section 397.1010 Application

- a) This Part applies to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and,
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- b) Each person designated in subsection (a) must know and obey the rules in this Part.
- c) This Part does not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.65, agricultural exception, when such commodities are transported from retailer to

DEPARTMENT OF TRANSPORTATION

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final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 397.1020 Incorporation By Reference of 49 CFR 397

- a) The Department incorporates "Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1990⁹², subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated.
- b) Section 397.1 is deleted and not incorporated.
- c) Section 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- e) The following addition to 49 CFR 397 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Driving of Motor Vehicles

- 2) Code Citation: 92 Ill. Adm. Code 392

- 3) Section Numbers:
392.2000

Adopted Action:
Amend

- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, par. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].

- 5) Effective date of rules: January 11, 1994

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

- 8) Date filed in agency's principal office: January 6, 1994

- 9) Notice of proposal published in Illinois Register:

August 20, 1993, 17 Ill. Reg. 13690

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

The statutory citations have been corrected by replacing "et seq." with "through 111" in the Authority Note.

The volume number of the Illinois Register has been changed from "17" to "18".

Section 392.2000(c) is new language.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received; JCAR suggested most of the nonsubstantive corrections.

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 392 and updates the statutory citation to reference the Illinois Compiled Statutes

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 392
DRIVING OF MOTOR VEHICLES

Section 392.1000 General
392.2000 Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 198991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. _____, effective January 11, 1994.

Section 392.2000 Incorporation by Reference of 49 CFR 392

- a) "Driving of Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 199092. No later amendments to or editions of 49 CFR 392 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.
- c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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- 1) Heading of Part: Hours of Service of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 395
- 3) Section Numbers: 395.2000
Adopted Action:
Amend
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, par. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].
- 5) Effective date of rules: January 11, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register:
August 20, 1993, 17 Ill. Reg. 13693
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The statutory citations have been corrected to replace "et seq." with "through 111" in the Authority Note.

The volume number "17" of the Illinois Register has been changed to "18".

The old Authority Note has been removed from the Table of Contents page.

Section 395.2000(a) has been revised to include a federal rulemaking.

Section 395.2000(c)(2) was revised to incorporate a change pursuant to P.A. 88-476, P.A. 88-476, effective July 1, 1994, changed the exception from 200 air mile radius to 150 air mile radius of the normal work reporting location to qualify for exempt status.

Section 395.2000(c)(3)(A) was revised to include a reference to the North American Uniform Out-of-Service Criteria (NAUOSC).

The word "who" has been inserted between the words "but" and "has" in Section 395.2000(c)(3)(B)(11).

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- In Section 395.2000(c)(3)(C)(i), the word "section" has been initially capped.
- In Section 395.2000(c)(3)(C)(ii), a slash replaces the dash between the words "Driver" and "Vehicle".
- In Section 395.2000(c)(4), the words "AS DEFINED IN 92 ILL. ADM. CODE 390.1020" have been placed in lower case.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received. The nonsubstantive revisions are at JCAR's suggestion.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 395 and updates the statutory citation to reference the Illinois Compiled Statutes.
- Section 395.2000(c)(1) deletes and does not incorporate 49 CFR 395.1(i) and 49 CFR 395.1(j) since these paragraphs provide regulatory relief for the States of Alaska and Hawaii only. Section 395.2000(c)(2) is amended to reflect a change resulting from the incorporation by reference of 49 CFR Part 395 as of October 1, 1992.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 395
 HOURS OF SERVICE OF DRIVERS

Section 395.1000
 395.2000
 General
 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. _____, effective January 11, 1994.

NOTE: Capitalization denotes statutory language.

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1990⁹², as amended at 58 FR 33775, June 21, 1993, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
 - 1) Sections 395.1(i) and 395.1(j) are deleted and not incorporated.

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21) Section 395.844441(e) as it applies to intrastate carriers is amended to establish that DRIVERS SHALL OPERATE WITHIN A 200 AIR-MILE (150 AIR-MILE, EFFECTIVE JULY 1, 1994) RADIUS OF THE NORMAL WORK REPORTING LOCATION TO QUALIFY FOR EXEMPT STATUS. (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1991, ch. 95 1/2, par. 18b-105(d)). (see P.A. 88-476, effective July 1, 1994) as amended by P.A. 87-829, effective January 17, 1992 [625 ILCS 5/18b-105(d)]

32) Section 395.13 is not incorporated and the following substituted therefor:

- A) Authority to declare drivers out-of-service due to violations of the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, or 3 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(23)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that the driver has violated the out-of-service criteria.
- B) Out-of-Service Criteria
 - i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
 - ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.
 - iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

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C) Responsibilities of motor carriers

- i) No motor carrier shall:
Require or permit a driver who has been declared out-of-service to operate a motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395;
Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this Section. The consecutive eight hour off duty period may include sleeper berth time.

- ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

D) Responsibilities of the Driver:

- i) No driver who has been declared out-of-service shall operate a motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.
- ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this Section.
- iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail

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the copy to a person or place designated by motor carrier to receive it.

- iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of motor vehicles.

- 43) Part 395 SHALL NOT APPLY TO AGRICULTURAL MOVEMENTS BETWEEN THE PERIOD OF FEBRUARY 15 THROUGH JUNE 30 EACH YEAR, AND ALL FARM TO MARKET AGRICULTURAL TRANSPORTATION as defined in 92 Ill. Adm. Code 390.1020 AND FOR GRAIN HAULING OPERATIONS WITHIN A RADIUS OF 200 AIR MILES OF THE NORMAL WORK REPORTING LOCATION that are engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) Section Numbers:
396.2000
396.2010
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].
- 5) Effective date of rules: January 11, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register:
August 20, 1993, 17 Ill. Reg. 13699
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The statutory citations has been corrected to replace "et seq." with "through 111" in the Authority Note.

The volume number "17" of the Illinois Register has been updated to "18".

In section 396.2010(d)(3), the dash has been replaced by a slash between the words "Driver" and "Vehicle."

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received.

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 396 and updates statutory citations to reference the Illinois Compiled

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Statutes. Section 396.2010 (c)(1) is revised to be consistent with the amendments to 92 Ill. Adm. Code 390. Section 396.2010(d)(3) is amended to require all motor carriers to certify correction of violations. Section 396.2010(d)(4) is added to require a motor carrier to retain a copy of the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) for twelve months from the date of inspection.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 396
 INSPECTION, REPAIR AND MAINTENANCE

Section
 396.1000 General
 396.2000 Incorporation by Reference of 49 CFR 396
 396.2010 Inspection of Vehicles in Operation

AUTHORITY: Implementing Section 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15512, effective September 10, 1990; amended at 15 Ill. Reg. 13167, effective August 21, 1991; amended at 16 Ill. Reg. 14431, effective September 8, 1992; amended at 18 Ill. Reg. _____, effective January 11, 1994.

NOTE: Capitalization denotes statutory language.

Section 396.2000 Incorporation by Reference of 49 CFR 396

a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1990⁹², as amended at 56 FR 4897, January 7, 1991, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.

- 1) Section 396.9 is deleted and not incorporated.
- 2) SECTION 396.11 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(3) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989⁹¹, ch. 95 1/2, par. 18b-105(c)(3)) [625 ILCS 5/18b-105(c)(3)])

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3) PARAGRAPHS (b) AND (c) OF SECTION 396.13 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(4) of the Law)

4) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1989⁹¹, ch. 95 1/2, par. 13-109) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by section 396.17.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 396.2010 Inspection of Vehicles in Operation

a) Personnel authorized to perform inspections. The Illinois State Police are authorized to enter upon and perform commercial vehicle inspections (as defined in 92 Ill. Adm. Code 390.1020) of motor carrier vehicles in operation.

b) Prescribed inspection report - the Illinois Commercial Driver Vehicle Inspection Report (ISP 5-238) shall be used to record results of motor vehicle inspections conducted by Illinois State Police personnel.

c) Motor Vehicles declared "Out-of-Service."

1) Authorized Illinois State Police personnel shall declare and mark "out-of-service" any motor vehicle which meets the "North American Uniform Out-of-Service Criteria" as incorporated by reference at 92 Ill. Adm. Code 390.2000⁹², defined at 92 Ill. Adm. Code 390.1020. An "out-of-service" vehicle sticker shall be used to mark vehicles "out-of-service."

2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term "operate" as used in this subsection shall include towing the vehicle, except that vehicles marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out-of-service" vehicle shall not be operated until such combination meets the performance requirements of the MCSR except for those conditions noted on the Illinois Commercial Driver Vehicle Inspection Report (ISP 5-238).

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- 3) No person shall remove the "out-of-service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out-of-service notice."
- d) Motor Carrier's disposition.
- 1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
 - 2) Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.
 - 3) Within 15 days following the date of the inspection, randomly-selected motor carriers shall certify that all violations noted have been corrected by completing the reverse side of the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) and returning it to the Illinois State Police Commercial Vehicle Enforcement Bureau's address indicated on the report.
 - 4) The motor carrier shall retain a copy of the ISP 5-238 at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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- 1) Heading of Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3) Section Numbers:

390.1000	<u>Adopted Action:</u>
390.1010	Amend
390.1020	Amend
390.1030	Amend
390.2000	Amend
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].
- 5) Effective date of rules: January 11, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register:

August 27, 1993, 17 Ill. Reg. 13986

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

The statutory citations have been corrected to replace "et seq." with "through 111." The Illinois Register volume number has been changed to "18."

A source note has been added at the end of Section 390.1000.

The labels have been removed from Section 390.1020.

Section 390.1010(f)(2) has been revised by citing to a different Section of the Code of Federal Regulations.

In Section 390.1020, "Commercial Vehicle Inspections, Level 2", the dash between "Driver" and "Vehicle" has been changed to a slash.

In Section 390.1020, "Direct assistance," the comma after the phrase "such as" has been removed in two places.

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In Section 390.1020, "Emergency," the word "winddriven" is now hyphenated. Also in this definition, the comma after the phrase "such as" has been removed in two places.

Section 390.1020, "Health Care Professional" has been amended to include only those professions licensed under the Medical Practice Act. This correction eliminates "physician assistants and advanced practice nurses" from the Department's definition.

The dashes and underscoring of the CFR citation in Section 390.1020, "Hazardous waste" have been corrected.

In Section 390.1020, "Motor Carrier," a slash has been inserted between the words "and or" in the seventh line.

The Department amended Section 390.1020, "Principal place of business" by removing the references to 49 CFR 394 and referencing 49 CFR 390 instead.

Slashes have been inserted between the words "and or" in the definition of "Truck" and "Truck tractor" in Section 390.1020.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received; JCAR suggested most of the nonsubstantive changes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

By this Notice of Adopted Amendments, the Department updates statutory citations to reference the Illinois Compiled Statutes and updates the date of incorporation by reference of 49 CFR 390 as of October 1, 1992 to include the federal rulemaking adopted at 58 FR 6726, February 2, 1993. By incorporating this rulemaking by reference, the Department's regulations will incorporate changes made in rulemaking Docket:

MC-90-2 and MC-92-12 [58 FR 6726, (February 2, 1993)]

Docket MC-90-2 and MC-92-12 adds a requirement for motor carriers to maintain a register of all accidents which meet the definition of an accident. All accidents must be listed on the register for a period of one year after they occur.

Section 390.1010(f) is amended to add a reference to the Illinois Vehicle Code (IVC). The additional language is added to clarify that Illinois

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Motor Carrier Safety Regulations are not to be interpreted as Illinois Vehicle Code exceptions.

Additionally, definitions for "Accident," "Direct Assistance," "Disabling Damage," "Emergency," "Emergency Relief and "Fatality" were added to Section 390.1020 to reflect new definitions that are part of 58 FR 6726 (February 2, 1993), but are incorporated by reference. Also, "Health care professional" is defined and added to Section 390.1020 and "Farm Machinery" is defined as a cross-reference to "Special agricultural movement equipment."

The Department is not incorporating 49 CFR 390.15(a) by reference and substitutes Section 390.2000(b)(2) in its place. This subsection requires that motor carriers provide all records and information pertaining to an accident to an authorized representative of the Department or the Federal Highway Administration.

Section 390.2000(b)(3) is deleted in order to apply 49 CFR 390.23, "Relief from regulations," to intrastate as well as interstate operations.

Section 390.2000(b)(4) was added in order to apply 49 CFR 390.25, "Extension of relief from regulations - emergencies," to interstate operations only.

Finally, the Department deletes Section 390.2000(c) and, instead, defines "North American Uniform Out-of-Service Criteria," part of the Commercial Vehicle Safety Alliance Standards, at Sections 390.1020. The criteria are also referenced in 92 Ill. Adm. Code 391, 395 and 396.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
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DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390
MOTOR CARRIER SAFETY REGULATIONS: GENERAL

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AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15519, effective September 10, 1990; amended at 15 Ill. Reg. 13171, effective August 21, 1991; amended at 16 Ill. Reg. 14435, effective September 8, 1992; amended at 18 Ill. Reg. _____, effective January 11, 1994.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 198991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111]. The Motor Carrier Safety Regulations (MCSR) consist of 92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397.

(Source: Amended at _____ Ill. Reg. _____, effective January 11, 1994)

Section 390.1010 General Applicability

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- a) All Parts of the MCSR except for "Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:

PERSONS EMPLOYING DRIVERS, DRIVERS AND COMMERCIAL MOTOR VEHICLES WHICH TRANSPORT PROPERTY OR PASSENGERS IN INTERSTATE OR INTRASTATE COMMERCE. (Section 18b-106 of the Law)

- b) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:

- 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
- 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.

- c) The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.5, agricultural exception, when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified.

- d) Nothing in the MCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

- e) The MCSR requires knowledge of and compliance with the following:

- 1) Every employer shall be knowledgeable of and comply with all requirements contained in the MCSR which are applicable to that motor carrier's operations.
- 2) Every driver and employee shall comply with all applicable requirements contained in the MCSR and shall be instructed accordingly.
- 3) All motor vehicles' equipment and accessories required by the MCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the MCSR.

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f) Except for provisions in paragraph 13-101 of the Illinois Vehicle Code [625 ILCS 5/13-101] or unless otherwise specifically provided, the requirements in the MCSR do not apply to:

- 1) All school bus operations as defined in Section 390.1020 of this Part;
- 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States. The accident reporting requirements of "Notification and Reporting of Accidents" (49-CFR-394), 49 CFR 390.15 remain applicable to the entities identified in this subsection when engaged in the interstate charter transportation of passengers. (58 FR 33775, June 21, 1993)
- 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- 4) The transportation of human corpses or sick and injured persons;
- 5) The operation of fire trucks and rescue vehicles while involved in emergency related operations; and
- 6) The private transportation of passengers.

(Source: Amended at 18 Ill. Reg. ____, effective January 11, 1994

Section 390.1020 Definitions

The following definitions apply to all Parts in the MCSR unless a specific Part expressly defines a term different than what is used below:

"Accident" means:

Except as provided below, an occurrence involving a commercial motor vehicle operating on a public road which results in:

A. fatality;

Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

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One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

The term accident does not include:

- An occurrence involving only boarding and alighting from a stationary motor vehicle; or
- An occurrence involving only the loading or unloading of cargo; or
- An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR 571.3 by a motor carrier and is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823. (58 FR 6726, February 2, 1993)

"AGRICULTURAL MOVEMENTS" MEANS THE OPERATION OF A MOTOR VEHICLE OR COMBINATION OF VEHICLES CONTROLLED AND OPERATED BY A PRIVATE MOTOR CARRIER OF PROPERTY THAT IS USING THE VEHICLE TO TRANSPORT NONHAZARDOUS OR HAZARDOUS AGRICULTURAL CROP PRODUCTION FERTILIZERS OR AGRICULTURAL CHEMICALS FROM A LOCAL SOURCE OF SUPPLY TO FARM OR FIELD, OR FROM ONE FARM OR FIELD TO ANOTHER, OR FROM FARM OR FIELD BACK TO THE LOCAL SOURCE OF SUPPLY. (Section 18b-101 of the Law)

"Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. "Federal Motor Carrier Safety Regulations: General" (49 CFR 390.5, October 1, 19992)

"Bus" means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 19992)

"BUSINESS DISTRICT" MEANS THE TERRITORY CONTIGUOUS TO AND INCLUDING A HIGHWAY WHEN WITHIN ANY 600 FEET ALONG SUCH HIGHWAY THERE ARE BUILDINGS IN USE FOR BUSINESS OR INDUSTRIAL PURPOSES, INCLUDING BUT NOT LIMITED TO, HOTELS, BANKS, OR OFFICE BUILDINGS WHICH OCCUPY AT LEAST 300 FEET OF FRONTAGE ON ONE SIDE OR 300

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FEET COLLECTIVELY ON BOTH SIDES OF THE HIGHWAY. (Section 1-108 of the Illinois Vehicle Code (the Code)(Ill. Rev. Stat. 1991, ch. 95 1/2, par. 1-108)) [625 ILCS 5/1-108].

"Charter transportation of passengers" means transportation, using a bus, or a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle, have acquired the exclusive use of the vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, 1990³²)

"Code" means the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 1-100 et seq.) [625 ILCS 5]

"COMMERCE" MEANS TRADE, COMMERCE OR TRANSPORTATION WITHIN THE STATE. (Section 18b-101(1) of the Law)

"COMMERCIAL MOTOR VEHICLE (CMV)" MEANS ANY SELF PROPELLED OR TOWED VEHICLE USED ON PUBLIC HIGHWAYS IN INTERSTATE AND INTRASTATE COMMERCE TO TRANSPORT PASSENGERS OR PROPERTY WHEN THE VEHICLE HAS A GROSS VEHICLE WEIGHT RATING OR GROSS COMBINATION WEIGHT RATING OF 10,001 OR MORE POUNDS; OR THE VEHICLE IS DESIGNED TO TRANSPORT MORE THAN 15 PASSENGERS, INCLUDING THE DRIVER; OR THE VEHICLE IS USED IN THE TRANSPORTATION OF HAZARDOUS MATERIALS IN A QUANTITY REQUIRING PLACARDING UNDER THE ILLINOIS HAZARDOUS MATERIALS TRANSPORTATION ACT. THIS DEFINITION SHALL NOT INCLUDE FARM MACHINERY, FERTILIZER SPREADERS, AND OTHER SPECIAL AGRICULTURAL MOVEMENT EQUIPMENT DESCRIBED IN SECTION 3-809 OF THE CODE NOR IMPLEMENTS OF HUSBANDRY AS DEFINED IN SECTION 1-130 OF THE CODE. (Section 18b-101 of the Law)

"Commercial Vehicle Inspections" means:

Level 1 - North American Standard Inspection: An inspection that includes each of the items specified under the North American Uniform Out-of-Service Criteria. As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, brake system, steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield glazing and wipers, lighting devices, safe loading, and hazardous material requirements as applicable.

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Level 2 - Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield and wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securement, low air warning device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 - Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, and vehicle inspection report. (Commercial Vehicle Safety Alliance (CVSA), CVSA Operations Manual, January 1991³³)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 1990³²)

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF TRANSPORTATION. (Section 18b-101 of the Law)

"Direct assistance" means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, 1992)

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"Disabling Damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions:

Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

Tire disablement without other damage even if no spare tire is available.

Headlamp or tail light damage.

Damage to turn signals, horn or windshield wipers which makes them inoperative. (58 FR 6726, February 2, 1993)

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: Driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51(b)(2)(1)(A) or (B)) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 1999)

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, 1999)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 1999)

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which

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interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by the Regional Director of Motor Carriers for the region in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies; or

A request by a police officer for tow trucks to move wrecked or disabled vehicles. (49 CFR 390.5, October 1, 1992)

"Emergency relief" means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, 1992)

"Employee" means:

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 1999)

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state,

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any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Interstate Commerce Commission (ICC) in "Commercial Zones" (49 CFR 1048), revised as of October 1, 1975. The descriptions are printed in Appendix F to the Motor Carrier Safety Regulations. A driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 1990⁹²)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the ICC under "Miscellaneous Motor Carrier Transportation Exemptions" (49 U.S.C. 10526). "Exempt motor carriers" are subject to the requirements set forth in the Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 1990⁹²)

"FARM TO MARKET AGRICULTURAL TRANSPORTATION" MEANS THE OPERATION OF A MOTOR VEHICLE CONTROLLED AND OPERATED BY A FARMER WHO IS A PRIVATE MOTOR CARRIER OF PROPERTY; WHO IS USING THE VEHICLE TO TRANSPORT AGRICULTURAL PRODUCTS TO OR FROM A FARM OPERATED BY THE FARMER, OR TO TRANSPORT FARM MACHINERY OR FARM SUPPLIES TO OR FROM A FARM OPERATED BY THE FARMER; AND WHO IS NOT USING THE COMMERCIAL VEHICLE TO TRANSPORT HAZARDOUS MATERIALS OF A TYPE OR QUANTITY THAT REQUIRES THE VEHICLE TO BE PLACARDED IN ACCORDANCE WITH THE ILLINOIS HAZARDOUS MATERIALS TRANSPORTATION ACT. (Section 18b-101 of the Law)

"Farm machinery" -- see definition of "Special Agricultural Movement Equipment" in this Section.

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is --

Controlled and operated by a farmer as a private motor carrier of property;

Being used to transport either --

Agricultural products, or
Farm machinery, farm supplies, or both, to or from a farm;

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Not being used in the operation of a for-hire motor carrier;
Not carrying hazardous materials of a type or quantity that required the vehicle to be placarded in accordance with 49 CFR 177.823; and
Being used within 150 air-miles of the farmer's farm.
(49-CFR-390.5, October 1, 1990⁹²)

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

Are owned by that person; or
Are under the direct control of that person. (49 CFR 390.5, October 1, 1990⁹²)

"Fatality" means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident. (58 FR 6726, February 2, 1993)

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 1990⁹²)

"FOR-HIRE" MEANS THE OPERATION OF A VEHICLE FOR COMPENSATION AND SUBJECT TO FEDERAL REGULATION BY THE INTERSTATE COMMERCE COMMISSION OR TO STATE REGULATION BY THE ILLINOIS COMMERCE COMMISSION (Section 1-124 of the Code).

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 1990⁹²)

"Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 1990⁹²)

"Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single vehicle. (49 CFR 390.5, October 1, 1990⁹²)

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to

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health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, October 1, 19992)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in the "Hazardous Materials Table and Hazardous Materials Communications" (49 CFR 172.101) when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in 49 CFR 172.101. (49 CFR 390.5, October 1, 19992)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a State under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, 19992)

"Health Care Professional" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes doctors of medicine, doctors of osteopathy, and doctors of chiropractic.

"Illinois State Police" means any individual officer of the Illinois State Police.

"IMPLEMENT OF HUSBANDRY" MEANS EVERY VEHICLE DESIGNED AND ADAPTED EXCLUSIVELY FOR AGRICULTURAL, HORTICULTURAL, OR LIVESTOCK RAISING OPERATIONS, INCLUDING FARM WAGONS, WAGON TRAILERS OR LIKE VEHICLES USED IN CONNECTION THEREWITH, OR FOR LIFTING OR CARRYING AN IMPLEMENT OF HUSBANDRY PROVIDED THAT NO FARM WAGON, WAGON TRAILER OR LIKE VEHICLE HAVING A GROSS WEIGHT OF MORE THAN 36,000 POUNDS, SHALL BE INCLUDED HEREUNDER. (Section 1-130 of the Code)

"Intermittent, casual, or occasional driver" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. The qualification of such a driver shall be determined and recorded in accordance with

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the provisions of 49 CFR 391.63 or 391.65, as applicable. (49 CFR 390.5, October 1, 19992)

"INTERSTATE COMMERCE" MEANS TRANSPORTATION BETWEEN TWO OR MORE STATES OR TRANSPORTATION ORIGINATING IN ONE STATE AND PASSING INTO OR THROUGH OTHER STATES FOR DELIVERY IN ANOTHER STATE. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 19992)

"Law" means the Illinois Motor Carrier Safety Law. (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111--as-amended by P.A. 87-829, effective January 17, 1992--> 1625 ILCS 5/18b-100 through 111)

"Motor carrier" means a for-hire motor carrier or a private motor carrier of property. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training,

assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the MCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 19992)

"Motor Carrier Safety Regulations (MCSR)" means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code: Chapter I, Subchapter d).

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 19992)

"North American Uniform Out-Of-Service Criteria" means a set of guidelines recognized by all States and the provisions of Canada as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load

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out-of-service. The criteria is enforced by law enforcement officers of a State or the federal government.

"Operator" -- see driver.

"Other terms" -- any other term used in the MCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the MCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 1990)

"PERSON" MEANS ANY NATURAL PERSON OR INDIVIDUAL, GOVERNMENTAL BODY, FIRM, ASSOCIATION, PARTNERSHIP, COPARTNERSHIP, JOINT VENTURE, COMPANY, CORPORATION, JOINT STOCK COMPANY, TRUST, ESTATE OR ANY OTHER LEGAL ENTITY OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNS. (Section 18b-101(5) of the Law)

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, where records required by "Minimum Levels of Financial Responsibility for Motor Carriers" (49 CFR 387), "Federal Motor Carrier Safety Regulations: General" (49 CFR 390) and "Notification and Reporting of Accidents" (49 CFR 394) or "Qualification of Drivers" (49 CFR 391), "Hours of Service of Drivers" (49 CFR 395), and "Inspection, Repair and Maintenance" (49 CFR 396) will be maintained. Provisions in the MCSR are made for maintaining certain records at locations other than the principal place of business. (49 CFR 390.5, October 1, 1990) (58 FR 33775, June 21, 1993)

"Private motor carrier of passengers" means a person who is engaged in an enterprise and provides transportation of passengers, by motor vehicle, that is within the scope of, and in the furtherance of that enterprise. (49 CFR 390.5, October 1, 1990)

"Private motor carrier of property" means a person who provides transportation of property by motor vehicle, and is not a for-hire motor carrier. (49 CFR 390.5, October 1, 1990)

"Regional Director" means the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States. (49 CFR 390.5, October 1, 1990)

"Regularly employed driver" means a driver who, in any period of seven consecutive days, is employed or used as a driver solely by a single motor carrier. (49 CFR 390.5, October 1, 1990)

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"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 1990)

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of the United States Department of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home or from such schools to home. (49 CFR 390.5, October 1, 1990)

"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home and for intrastate sanctioned school functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Special agent" -- See 49 CFR Appendix B to Subchapter B of Chapter III.

"SPECIAL AGRICULTURAL MOVEMENT EQUIPMENT" MEANS A VEHICLE OF THE SECOND DIVISION HAVING A CORN SHELLER, A WELLDRILLER, HAY PRESS, CLOVER HULLER, FEED MIXER AND UNLOADER OR OTHER FARM MACHINERY PERMANENTLY MOUNTED THEREON AND USED SOLELY FOR TRANSPORTING THE SAME, FARM WAGON TYPE TRAILERS HAVING A FERTILIZER SPREADER ATTACHMENT PERMANENTLY MOUNTED THEREON, HAVING A GROSS WEIGHT OF NOT TO EXCEED 36,000 POUNDS AND FARM WAGON TYPE TANK TRAILERS (I.E., NURSE TANKS) NOT TO EXCEED 2,000 GALLON CAPACITY. ALSO INCLUDES ANY SINGLE UNIT SELF-PROPELLED AGRICULTURAL FERTILIZER IMPLEMENT, DESIGNED FOR BOTH ON AND OFF ROAD USE, EQUIPPED WITH FLotation TIRES AND OTHERWISE ESPECIALLY ADAPTED FOR THE APPLICATION OF PLANT FOOD MATERIALS OR AGRICULTURAL CHEMICALS. (Section 3-809 of the Code)

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 1990)

"Trailer" includes"

"Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor

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vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 19992)

"Pole trailer" means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 19992)

"Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle. (49 CFR 390.5, October 1, 19992)

"Truck" means any self-propelled motor vehicle except a truck/tractor, designed and or used for the transportation of property. (49 CFR 390.5, October 1, 19992)

"Truck/tractor" means a self-propelled motor vehicle designed and or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 19992)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 19992)

"US DOT" means the United States Department of Transportation.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 390.1030 Rules of Construction

- a) In the MCSR unless the context requires otherwise:
- 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular;
 - 3) Words imparting the masculine gender include the feminine; and
 - 4) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, 19892)

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- b) In the MCSR:
- 1) "Officer" includes any person authorized by law to perform the duties of the office;
 - 2) "Writing" includes printing and typewriting;
 - 3) "Shall" is used in an imperative sense;
 - 4) "Must" is used in an imperative sense;
 - 5) "Should" is used in a recommendatory sense;
 - 6) "May" is used in a permissive sense; and
 - 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, October 1, 19892)

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section 390.2000 Incorporation by Reference

- a) 49 CFR 390, Subpart B is hereby incorporated by reference as that Subpart of the FMCSR was in effect on October 1, 19992, as amended at 52 FR 31407, January 28, 199258 FR 6726, February 2, 1993, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, Subpart B are incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 390, Subpart B shall apply for the purposes of this Subpart.

- 1) 49 CFR 390.9 is deleted and not incorporated.
- 2) Section 390.15(a) is not incorporated and the following is substituted therefor:

A motor carrier shall make all records and information pertaining to an accident available to an authorized representative or special agent of the Federal Highway Administration or Illinois Department of Transportation upon request or as part of any inquiry within such time as the request or inquiry may specify. A motor carrier shall give an authorized representative of the Federal Highway Administration or Illinois Department of Transportation all reasonable assistance in the investigation of any accident including providing a full, true and correct answer to any question of the inquiry.

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- 32) 49 CFR 390.21 applies only to commercial motor vehicles engaged in interstate commerce.
- 33) ~~49 CFR 390.23 applies only to commercial motor vehicles engaged in interstate commerce.~~
- 4) ~~49 CFR 390.25 applies only to commercial motor vehicles engaged in interstate commerce.~~
- 54) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
- 65) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
- 76) Any reference to a section in the incorporated material shall be read to refer to that Section in the MCSR.
- 87) Any reference to "Part 325 of Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards." (49 CFR 325, October 1, 1990)
- e) ~~The "North American Uniform Out-of-Service Criteria" is incorporated by reference as that part of the Commercial Vehicle Safety Alliance standards that was in effect on February 15, 1992. No later amendments to or editions of the North American Uniform Out-of-Service Criteria are incorporated.~~

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994.)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Ill. Adm. Code 393
- 3) Section Numbers: 393.2000 Adopted Action: Amend
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111 [625 ILCS 5/18b-100 through 111]
- 5) Effective date of rules: January 11, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register: August 20, 1993, 17 Ill. Reg. 13730
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
The statutory citations have been corrected to replace "et seq." with "through 111" in the Authority Note.
The volume number, "17", of the Illinois Register has been changed to "18".
The word "as" has been deleted from the Main Source Note.
Section 393.2000(c)(3) is new language.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received. The nonsubstantive corrections were suggested by JCAR.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 393 and updates statutory citations to reference the Illinois Compiled Statutes.

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 393
PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section
393.1000 General
393.2000 Incorporation by Reference of 49 CFR 393

AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989), ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15537, effective September 10, 1990; amended at 15 Ill. Reg. 13185, effective August 21, 1991; amended at 18 Ill. Reg. _____, effective January 11, 1994.

NOTE: Capitalization denotes statutory language.

Section 393.2000 Incorporation by Reference of 49 CFR 393

a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.

1) SECTION 393.93 SHALL NOT APPLY TO THOSE COMMERCIAL MOTOR VEHICLES ENGAGED IN INTRASTATE COMMERCE WHICH WERE MANUFACTURED BEFORE JUNE 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989), ch. 95 1/2, par. 18b-105(c)(1)) [625 ILCS 5/18b-105(c)(1)].

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- 2) SECTION 393.86 SHALL NOT APPLY FOR THOSE VEHICLES REGISTERED AS FARM TRUCKS UNDER SECTION 3-815(c) OF THE ILLINOIS VEHICLE CODE (the Code) (Ill. Rev. Stat. 198991, ch. 95 1/2, par. 3-815(c)) [625 ILCS 5/3-815(c)] AND UTILIZED IN INTRASTATE COMMERCE (Section 18b-105(c)(2) of the Law).
- 3) Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Procedures and Enforcement
- 2) Code Citation: 92 Ill. Adm. Code 386
- 3) Section Numbers: Adopted Action:
- | | |
|----------|-------|
| 386.1000 | Amend |
| 386.1010 | Amend |
| 386.1140 | Amend |
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, par. 18b-100 through 111 [625 ILCS 5/18b-100 through 111].
- 5) Effective date of rules: January 11, 1994

- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register:
August 20, 1993, 17 Ill. Reg. 13734
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The Department corrected the statutory citations in the Authority Note and in the text by replacing "et seq." with the phrase "through 111."

The volume number in the source notes has been changed from "17" to "18".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR?

No agreements letter was received.

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is revising the address of the Office of the Director of Division of Traffic Safety and is updating the statutory citations to reference the Illinois Compiled Statutes.

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NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
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PART 386
PROCEDURES AND ENFORCEMENT

Section	Scope
386.1000	Definitions
386.1010	Service
386.1020	Subpoenas
386.1030	Responsibility for Enforcement
386.1040	Investigations
386.1050	Inspection of Records and Motor Vehicles
386.1060	Out of Service
386.1070	Record of Inspection
386.1080	Warning Letter
386.1090	Maximum Penalties
386.1110	Commencement of Civil Penalty Proceeding
386.1120	Reply
386.1130	Payment of Penalty
386.1140	Request for Hearing
386.1150	Hearing
386.1160	Presiding Officer's Decision
386.1170	Assessment Considerations
386.1180	Appeal
386.1190	Willful Violations
386.1200	

AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989], ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15542, effective September 10, 1990; amended at 18 Ill. Reg. _____, effective January 11, 1994.

NOTE: Capitalization denotes statutory language.

Section 386.1000 Scope

This part defines certain terms and prohibits practices that are applicable to each proceeding described in this Part that are utilized by the Department in carrying out its duties under the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989], ch. 95 1/2, pars. 18b-100

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through 111) [625 ILCS 5/18b-100 through 111] and describes the various enforcement authorities exercised by the Department and the associated sanctions, prescribes the procedures governing the exercise of those authorities and the imposing of those sanctions.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 386.1010 Definitions

As used in this Part:

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation
2300-South-Dickson-Parkway 3215 Executive Park Drive
Springfield, Illinois 62764Q3

"Illinois State Police" means any individual officer of the Illinois State Police.

"Materially" means anything which relates to any substantive issue that is of consequence to the determination of a proceeding.

"Relevant" means having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without that information.

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Undue Delay" means delay which is unwarranted, unjustified, or improper.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 386.1140 Payment of Penalty

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a) Payment of a civil penalty should be made by certified check or money order payable to the "Treasurer of the State of Illinois" and sent to:

Director, Division of Traffic Safety
Illinois Department of Transportation
2300-South-Dickson-Parkway P.O. Box 19212
Springfield, Illinois 62764 62794-9212.

b) At any time after an order assessing a civil penalty is referred to the Attorney General for collection, the respondent may offer a compromise, for example, by offering a specific amount or a payment plan to the Director who, with the consent of the Attorney General, may accept or reject it. If it is accepted, the respondent is notified in writing by the Director that the acceptance is in full settlement of the civil penalty for the violation.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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- 1) Heading of Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Numbers:
391.1000 Amend
391.2000 Amend
- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 95 1/2, par. 18b-100 through 111 [625 ILCS 5/18b-100 through 111]
- 5) Effective date of rules: January 11, 1994
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 6, 1994
- 9) Notice of proposal published in Illinois Register:
August 20, 1993, 17, Ill. Reg. 13739
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
The statutory citations are corrected to replace "et seq." with the phrase "through 111" in the Authority Note.
The volume number of the Illinois Register in the source notes has been changed from "17" to "18".
Section 391.2000(a) has been revised to include a federal rulemaking.
In Section 391.2000(b), the word "section" is now plural.
In Section 391.2000(c)(4), the spelling of the word "application" is corrected.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements letter was received; JCAR suggested most of the nonsubstantive changes.
- 13) Will this rule replace an Emergency Rule currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department updates the date of incorporation by reference of 49 CFR 391 and updates the statutory citation to reference the Illinois Compiled Statutes.
Section 49 CFR 391.43(a)(1) is not incorporated and, instead, the Department references the definition of a "Health Care Professional" as defined in 92 Ill. Adm. Code 390.1020.
Section 391.1000(b) is amended to clarify the impact of Part 391 on farm vehicle drivers. The additional language is added as the reader is not required to cross reference other parts of the Illinois Motor Carrier Safety Regulations to determine the applicability of Part 391 to farm vehicle drivers.
Section 391.2000(c)(6) was amended to include a reference to Section 391.2000(c)(4) which was inadvertently omitted at the time of the last rulemaking.
Finally, the Department deletes 92 Ill. Adm. Code 391.2000(c)(11). The term "Reportable Accident" should have been deleted as part of a previous rulemaking.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P. O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 391
QUALIFICATION OF DRIVERS

Section
391.1000
391.2000
General
Incorporation by Reference of 49 CFR 391

AUTHORITY: Implementing Sections 18b-100 through 111 and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 18b-100 through 111) [625 ILCS 5/18b-100 through 111].

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5362, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. _____, effective January 11, 1994.

Section 391.1000 General

- a) This Part establishes the minimum qualifications for persons who drive commercial motor vehicles.
- b) This Part does not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load, of more than 10,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see 49 CFR 391.67) This Part does not apply to the driver of any intrastate articulated vehicle which meets the definition of special agricultural movement equipment, farm machinery or implement of husbandry as defined in 92 Ill. Adm. Code 390.1020.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

Section 391.2000 Incorporation by Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1990; as amended at 56 FR 40806, August 16,

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1991, as amended at 58 FR 33775, June 21, 1993, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated.

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.
 - 1) Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as incorporated by reference at 92-111-Adm.-Code-390-2000, defined at 92 Ill. Adm. Code 390.1020.

- 2) Section 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- 3) PARAGRAPHS (b)(3) (INSULIN DEPENDENT DIABETIC) AND (b)(10) (MINIMUM VISUAL ACUITY) OF 49 CFR 391.41 SHALL NOT APPLY TO THE DRIVER OF A COMMERCIAL MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OR GROSS COMBINATION WEIGHT OF OVER 12,000 LBS., USED IN THE INTRASTATE TRANSPORTATION OF PROPERTY WHO IMMEDIATELY PRIOR TO JULY 29, 1986 WAS ELIGIBLE AND LICENSED TO OPERATE A MOTOR VEHICLE SUBJECT TO THE ILLINOIS MOTOR CARRIER SAFETY REGULATIONS (FMCSR) AND WAS ENGAGED IN OPERATING SUCH VEHICLES, AND WHO WAS DISQUALIFIED ON JULY 29, 1986 BY THE ADOPTION OF 49 CFR 391 BY REASON OF THE APPLICATION OF PARAGRAPHS (b)(3) AND (b)(10) OF 49 CFR 391.41 WITH RESPECT TO A PHYSICAL CONDITION EXISTING AT THAT TIME UNLESS SUCH DRIVER HAS A RECORD OF ACCIDENTS WHICH WOULD INDICATE A LACK OF ABILITY TO OPERATE A MOTOR VEHICLE IN A SAFE MANNER. (Section 18b-105 of the Law)

- 4) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been

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eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

- 52) Section 391.43(a)(1) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b) of this section, the medical examination shall be performed by a licensed health care professional as defined in 92 Ill. Adm. Code 390.1020.

- 65) Section 391.43(fg)(4) is added to the Illinois Motor Carrier Safety Regulations and reads as follows:

If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

- 76) Section 391.69 is deleted and not incorporated.

- 87) Section 391.83(a) is modified to cause 49 CFR 391, Subpart H to apply to motor carriers and persons who operate a commercial motor vehicle, as defined in 92 Ill. Adm. Code 390.1020 in either interstate or intrastate commerce.

- 98) The definition of "commercial motor vehicle" in Section 391.85 is modified to include such vehicles operated in either interstate or intrastate commerce, and to not include farm machinery, fertilizer spreaders or other special agricultural movement equipment or implements of husbandry used in intrastate commerce.

- 109) Section 391.87(g) is not incorporated and the following substituted therefor:

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A motor carrier shall produce upon demand and shall permit the Illinois Department of Transportation or Administrator of the US DOT to examine all records related to the administration and results of controlled substance testing performed under this Part.

- 1140) The schedule established in Sections 391.93(b) and (c) for implementation of a controlled substance testing program is modified as follows:

- A) The provisions of Section 391.93(b) apply only to motor carriers and operators of commercial motor vehicles engaged in interstate commerce.
- B) The provisions of Section 391.93(c) apply only to motor carriers and operators of commercial vehicles engaged in interstate commerce.
- C) Motor carriers subject to the provisions of Sections 391.93(b) and (c) shall include any driver who operates a commercial motor vehicle in intrastate commerce in the carrier's controlled substance testing program not later than December 21, 1990. (49 CFR 391.93)
- D) Part 391, Subpart H shall apply to motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce effective December 21, 1990. (49 CFR 391.93)

- 1141) For the purpose of this rule, the term "Repetable Accident" means an occurrence involving a commercial motor vehicle resulting in:

The death of a motor carrier or bodily injury to a person who, as a result of the injury, immediately requires medical treatment away from the scene of the accident; or the total damage to the property exceeding \$4,100 or more based upon actual costs or reliable estimates.

The term "Repetable Accident" does not include an occurrence involving only loading and unloading of a stationary motor vehicle or a lighting violation involving only the lighting of

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NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Construction in Floodways of Rivers, Lakes and Streams

2) Code Citation: 92 Ill. Adm. Code 700

3) Section Numbers: Emergency Action:

700.20 Amend
700.75 New Section

4) Statutory Authority: 615 ILCS 5/23, 29a and 30

5) Effective Date of Amendments: January 14, 1994

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.

7) Date filed in agency's principal office: January 14, 1994.

8) Reason for Emergency: In the wake of the 1993 flooding along the Illinois and Mississippi Rivers, there has been considerable discussion about possible levee raises. Currently, one application for a levee raise is pending with the Department. Others are expected. While the Rivers, Lakes and Streams Act (the Act) (Ill. Rev. Stat. 1991, ch. 19, pars. 70, 78 and 78.1) [615 ILCS 5/23, 29a and 30] requires regulation of all levee raises, the Department has determined that certain levee raises may not be governed by the standards of Part 700. It is urgent that this be corrected before any applications for new or raised levees are processed. Otherwise serious, uncompensated flood damages may result.

Section 700.20 indicates, in the definition of "Worst-case Analysis," that, "Flood events up to and including the 100-year frequency flood shall be used in this analysis." Several of the levees along the Illinois and Mississippi Rivers have their existing top elevation at or above the elevation of the 100-year frequency flood. By limiting analysis to the 100-year frequency flood, the rule ignores the effects of raising the top elevation above the 100-year flood.

It is necessary to regulate all levee raises, regardless of their existing top elevation, in order to protect the integrity of other levees in the vicinity as well as to prevent increases in flood damages, in general, to development in the affected river reach. The proposed amendment will apply the Department's

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unloading of cargo; or
An occurrence in the course of farm-to-market
agricultural transportation (as defined in 92
Ill. Adm. Code 390.5) by the motor carrier; or
An occurrence in the course of the operation of a
passenger car by a motor carrier and which is not
transporting passengers for hire or hazardous
materials of a type and quantity that requires
the vehicle to be marked or placarded in
accordance with 92 Ill. Adm. Code 177-649-CFR
394.3, October 1, 1990.

(Source: Amended at 18 Ill. Reg. _____, effective January 11, 1994)

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standards to all levee raises and will specify the flood discharge to be used in analyzing the effect of a proposed levee raise.

- 9) A complete description of the subjects and issues involved:
This emergency amendment will clarify how the effects of proposed levee and floodwall raises will be evaluated in those cases where the existing top of the levee or floodwall is at or above the 100-year frequency flood elevation. The Act requires that levee or floodwall raises be regulated, but, this Part currently is confusing as to what flood discharge should be used for analysis in that situation. This emergency amendment will eliminate that confusion.
- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This emergency rulemaking has no effect on local governments unless they own a levee or floodwall which they propose to raise. In that case, this emergency rulemaking will clarify the required analysis procedure, thereby speeding the review of their application.
- 12) Information and questions regarding this rule amendment shall be directed to:

Mr. David R. Boyce, P.E.
Chief, Floodplain Management Section
Department of Transportation
Division of Water Resources
P. O. Box 19484
Springfield, Illinois 62794-9484
217/782-3862

The full text of the emergency amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER i: WATER RESOURCES

PART 700

CONSTRUCTION IN FLOODWAYS OF RIVERS, LAKES AND STREAMS

Section	Purpose
700.10	Definitions
700.20	EMERGENCY
700.30	Jurisdiction
700.40	Permit Application
700.50	Notice to Interested Parties
700.60	Departmental Standards
700.70	Special Provisions for Bridges and Culverts
700.75	Special Provisions for Levees and Floodwalls
EMERGENCY	
700.80	Statewide Permits
700.90	Denial of Applications
700.100	Violations and Enforcement
700.110	Final Administrative Decision

AUTHORITY: Implementing and authorized by the Rivers, Lakes and Streams Act (Ill. Rev. Stat. 1991, ch. 19, pars. 70, 78 and 78.1) [615 ILCS 5/23, 29a and 30].

SOURCE: Adopted at 17 Ill. Reg. 4484, effective March 23, 1993; emergency amendments at 18 Ill. Reg. —, effective January 14, 1994, for a maximum of 150 days.

Section 700.20 Definitions

EMERGENCY

As used in this Part, the words and terms listed shall have the meanings ascribed to them as follows:

"Bridge or Culvert Reconstruction" The total replacement of an existing bridge or culvert, including substructure and superstructure, on the existing road alignment or on an alignment within 100 feet upstream or downstream of the existing alignment in an urban area, or within 500 feet upstream or downstream of the existing alignment in a rural area.

"Construction" The placement, erection, or reconstruction of any building or structure, any filling or excavation, the installation of any utility, or the storage of any materials.

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NOTICE OF EMERGENCY AMENDMENTS

Construction includes, but is not limited to, modifications to an existing building which would increase the building's outside dimensions, channel modifications and enclosures, roads, bridges, culverts, levees, bank protection, walls, fences, and any other man-made activity which would modify the physical features of a floodway with respect to the storage or conveyance of flood waters. Construction does not include normal maintenance and repair activities or farming operations such as discing and plowing.

"Department" The Illinois Department of Transportation.

"Floodway" The channel of a river, lake or stream and that portion of the adjacent land area which is needed to safely store and convey flood waters. Where floodways have been delineated for regulatory purposes, the mapped lines show the floodway encroachment limits and will be used. For other areas, floodway limits will be estimated, using hydrologic and hydraulic calculations, to preserve adequate conveyance and storage so that stage increases for the 100-year frequency flood would not exceed 0.1 foot.

"Permittee" The person issued a permit pursuant to this Part.

"Rural Areas" All areas of the State not classified as urban areas.

"Urban Areas" Areas of the State where residential, commercial or industrial development currently exists or, based on land use plans or controls, is expected to occur within 10 years of the application date. In determining urban areas, the Department will consider the expertise of local officials, regional and local planning commissions, city and county planners, or private development planners, as well as all available mapping. Areas with only isolated or widely scattered buildings will not be classified as urban areas.

"Worst-case Analysis" The calculation of the maximum increases in flood heights, velocities and damages a project would cause due to conveyance and storage losses considering both the project alone and the combined effects of other existing construction and construction which could reasonably be anticipated to be proposed in the locality. Flood events up to and including the 100-year frequency flood shall be used in this analysis (see Section 700.75 for exception).

(Source: Emergency amendment at 18 Ill. Reg. _____, effective January 14, 1994, for a maximum of 150 days.)

DEPARTMENT OF TRANSPORTATION
NOTICE OF EMERGENCY AMENDMENTS

Section 700.75 Special Provisions for Levees and Floodwalls
EMERGENCY

The flood discharge which would just overtop a levee or floodwall shall be used for the worst-case analysis.

(Source: Emergency rule added at 18 Ill. Reg. _____, effective January 14, 1994, for a maximum of 150 days.)

ILLINOIS REGISTER

ILLINOIS COMMERCE COMMISSION

NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) The Heading of the Part: Pole Attachment Rates, Terms and Conditions Applicable to Cable Television Companies, Electric Utilities and Telecommunications Carriers
- 2) Code Citation: 83 Ill. Adm. Code 315
- 3) Section Numbers: Action:
315.20 Modification
- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
January 8, 1993, at 17 Ill. Reg. 202.
- 5) Date JCAR Statement of Objection Published in the Register:
December 31, 1993 17 Ill. Reg. 22605
(issue date)
- 6) Summary of Action Taken by the Agency: The Commission has modified Section 315.20(b) to remove the allocation of neutral space from the formula. This will reduce the presumptive rental rate to be paid by the CATV companies to the regulated entities.

ILLINOIS REGISTER

OFFICE OF THE LIEUTENANT GOVERNOR

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

- 1) Heading of the Part for which proposed rulemaking is being corrected:
~~ILLINOIS CLEAN-AND-BEAUTIFUL PROGRAM~~
Keep Illinois Beautiful Program.
- 2) Code Citation: 47 Ill. Adm. Code 600
- 3) Illinois Register citation to Notice of Proposed Rules (Amendments):
17 Ill. Reg. 19834; November 19, 1993
- 4) Sections being corrected:
The only purpose of this correction is to change the title of the Heading of the Part.
- 5) Correction being made:

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER IV: OFFICE OF THE LIEUTENANT GOVERNORPART 600
KEEP ILLINOIS BEAUTIFUL PROGRAM~~ILLINOIS CLEAN-AND-BEAUTIFUL PROGRAM~~

Section	Purpose
600.10	Definitions
600.20	Program Requirements
600.30	Application Process
600.40	Administrative Requirements
600.50	Incorporation by reference
600.60	

Authority: Implementing and authorized by Section 46.53 of the Civil Administrative Code of Illinois (20 ILCS 605/46.53).

Source: Adopted at 16 Ill. Reg. 13514, effective August 21, 1992; amended at Ill. Reg. , effective .

Section 600.50 Administrative Requirements

- a) Costs for Local Government - Costs to the local government are not allowable
- b) Method of Compensation - Payments pursuant to a grant under the

OFFICE OF THE LIEUTENANT GOVERNOR

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

Act are subject to the availability of funds appropriated by the General Assembly.

- 1) The grantee will receive 50% of its total grant funds upon the effective date of the grant document and the remaining 50% by the date specified in the grant document (i.e., halfway through the grant period).
- 2) The grantee shall repay the State for any funds that are determined by the Statewide Coordinator through monitoring (subsection (h) below) and audit (subsection (g) stricken through and subsection (h) underlined) to have been spent in violation of the grant document.

c) Reallocation of Funds - The Board will create and maintain a "back-up funding list" comprised of projects that have met program criteria and have been approved on a standby basis, but remain unfunded after the annual award of Keep Illinois Beautiful Program Grants. On April 30, 1994 the Program Coordinator will re-evaluate the timely distribution of funds under all program components, as well as the availability of unspent and recaptured funds. On this date, funds may be returned to the Keep Illinois Beautiful Grant Program to fully fund, to the extent funds are available, projects in the order they appear on the "back-up funding list".

d) Final Report - The grantee shall submit a final report to the Statewide Coordinator for each grant to no later than 30 days after the end of the grant period. The final report will outline the accomplishments/results and achievements of the certified program funded under the grant as compared to the goals and objectives contained in the grant document. The Statewide Coordinator reserves the right to request additional information to further clarify or document activities outlined in the final report.

e) Financial Management Standards - The certified program's management systems shall be structured under the Accounting Standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (June 1984). The grantee is accountable for all funds received under this program. The grantee through its agreement with the not-for-profit organization administering the certified program, shall maintain control and accountability over all funds, equipment, property, and other assets under the grant as required by the Statewide Coordinator. The grantee shall keep records that detail the expenditures of grant funds and accurately document such

OFFICE OF THE LIEUTENANT GOVERNOR

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

expenditures as required under the aforementioned AICPA Accounting Standards.

f) Monitoring - The Statewide Coordinator will monitor each certified program periodically by visits throughout the fiscal year and/or by periodic program reports required to be submitted by grantee. The Statewide Coordinator will notify the grantee in writing in advance of monitoring visits. Any program reports to be submitted by grantee shall be required not more frequently than on a quarterly basis. The certified program will be evaluated for compliance with this Part and terms and conditions of the grant document. The Statewide Coordinator will confirm the results of the monitoring visits by letter to the grantee and not-for-profit.

g) Interest on Grant Funds - In accordance with the Illinois Grant Funds Recovery Act (30 ILCS 705/1 et seq.), all interest earned on grant funds held by the grantee shall become part of the grant principal when earned. Any interest earned on grant funds, and not expended as grant principal during the term of the grant, shall be returned to the State.

h) Audits - The grantee shall be responsible for having an annual audit of all grant records and such audit must be performed by an independent public accountant, certified and licensed by authority of the State of Illinois. The audit must be conducted in accordance with generally accepted government auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) (1981). The grantee may secure an independent audit of its grant in the same manner as it secures its regular audits, provided it provides for maximum open and free competition in the selection of the auditor. The grant audit should be conducted as part of the grantee's annual audit. The grantee shall provide the Statewide Coordinator with one copy of any portion(s) of its annual audit that pertains to the certified program or grant funds. In instances in which the grant period or term does not coincide with the grantee's fiscal year, two fiscal audit reports shall be forwarded to the Statewide Coordinator. Any grantee determined to have misused grant funds (e.g., fraud and abuse, noncompliance with this Part, noncompliance with terms and conditions of grant document) as a result of an audit shall be ineligible to apply for and receive funds under this program for ~~the following year~~ the period of one year after the date of such determination.

i) Withdrawal - The grantee shall be responsible for having an annual audit of all grant records and such audit must be performed by an independent public accountant, certified and licensed by authority of the State of Illinois. The audit must be conducted in accordance with generally accepted government auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) (1981). The grantee may secure an independent audit of its grant in the same manner as it secures its regular audits, provided it provides for maximum open and free competition in the selection of the auditor. The grant audit should be conducted as part of the grantee's annual audit. The grantee shall provide the Statewide Coordinator with one copy of any portion(s) of its annual audit that pertains to the certified program or grant funds. In instances in which the grant period or term does not coincide with the grantee's fiscal year, two fiscal audit reports shall be forwarded to the Statewide Coordinator. Any grantee determined to have misused grant funds (e.g., fraud and abuse, noncompliance with this Part, noncompliance with terms and conditions of grant document) as a result of an audit shall be ineligible to apply for and receive funds under this program for the following year.

OFFICE OF THE LIEUTENANT GOVERNOR

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

hi) Non-discrimination - The grantee shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.).

j) Bids - All goods must be procured in accordance with the Illinois Purchasing Act (30 ILCS 505/1 et seq.). Grantees and not-for-profit organizations administering certified programs may also enter into contractual agreements with third parties for services.

k) Separate Accounts - A separate bank account must be established for the purpose of this program. The account must require two authorizing signatures. Only funds received under this program or the grantee's matching funds may be deposited in the account.

l) Suspension and Termination.

1) If the Statewide Coordinator believes that a grantee has failed to comply with material terms or conditions of the grant document or this Part, the Statewide Coordinator shall recommend that the Lieutenant Governor suspend the grant and withhold further payments until the grant is terminated or the grantee's non-compliance has been corrected. At his discretion, the Lieutenant Governor may thereupon suspend grant payments effective as of the date that the Statewide Coordinator notifies the grantee in writing of the non-compliance and of the Lieutenant Governor's decision to suspend payments under the grant. The Lieutenant Governor will determine that grantee has failed to comply with the terms and conditions of a grant when:

- A) the Statewide Coordinator has notified the grantee in writing of the non-compliance, and
- B) the grantee fails to develop and implement a cooperative action plan, which explains corrective action to be taken or presents evidence refuting the deficiencies, within 45 days after the Statewide Coordinator's notice.

2) A grant shall be terminated in the absence of full State funding if the Lieutenant Governor determines that the grantee has failed to comply with the terms and conditions of the grant in whole or in part or if the Statewide Coordinator and the grantee agree to terminate the grant.

m) Hiring of Staff - Funds under the Program may be used for the

OFFICE OF THE LIEUTENANT GOVERNOR

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

hiring of staff for the not-for-profit agency operating the certified program to conduct eligible activities. The program coordinator is prohibited from hiring any immediate family member utilizing funds under this program. Immediate family members shall include a spouse, mother, father, daughter, or son.

n) Drug Free Workplace Act - The Grantee shall certify that it will comply with the provisions of the Illinois Drug Free Workplace Act (30 ILCS 580/1 et seq.).

(Source: Amended at __ Ill. Reg. ____, effective ____.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 4, 1994 through January 10, 1994, and have been scheduled for review by the Committee at its February 15, 1994 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Office Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
2/19/94	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	9/24/93 17 Ill Reg 15444	2/15/94
2/19/94	Department of Public Aid, Food Stamps (89 Ill Adm Code 121)	10/8/93 17 Ill Reg 16405	2/15/94
2/23/94	Department of Conservation, Sport Fishing Regulations for the Waters of Illinois (17 Ill Adm Code 810)	11/19/93 17 Ill Reg 19785	2/15/94
2/23/94	State Board of Education, Program Accounting Manual (23 Ill Adm Code 110)	10/22/93 17 Ill Reg 18283	2/15/94
2/23/94	State Board of Education, Repeal of Reorganization Committees (23 Ill Adm Code 550)	10/15/93 17 Ill Reg 17611	2/15/94
2/23/94	State Board of Education, Repeal of Article 34 School and Subdistrict Councils (23 Ill Adm Code 610)	10/15/93 17 Ill Reg 17603	2/15/94

PROCLAMATION

94-001

BLACK DATA PROCESSING ASSOCIATES DAY

Whereas, the Black Data Processing Associates (BDPA) is a national not-for-profit organization of information management professionals; and

Whereas, BDPA assists minority students in entering career paths associated with the information technology industry; and

Whereas, BDPA sponsors programs directed at the education of our young people, including a city-wide high school computer competition and 14-week high school summer training camp; and

Whereas, BDPA has 50 chapters across the nation. The Chicago chapter is the largest, with more than 300 members. For the third consecutive year, the Chicago organization was named Chapter of the Year; and

Whereas, the BDPA will host its fifth annual awards banquet to recognize the contributions of its members, supporters, and sponsors January 22, 1994, in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 22, 1994, as BLACK DATA PROCESSING ASSOCIATES DAY in Illinois.

Issued by the Governor December 30, 1993.

Filed with the Secretary of State January 7, 1994.

94-002

SERTOMA NATIONAL HERITAGE FREEDOM WEEK

Whereas, the United States Constitution establishes freedom of religion, speech, press, assembly, and petition; and

Whereas, since Operation Desert Storm, the fall of Communist Russia, the fall of the Berlin Wall, and the 200th anniversary of the Bill of Rights, issues concerning people's rights and freedoms have come to the forefront across the globe; and

Whereas, our state capital was the home and final resting place of our 16th president, Abraham Lincoln. As commander-in-chief of the Union Army during the Civil War, Lincoln preserved freedom in our nation by signing the Emancipation Proclamation to abolish slavery; and

Whereas, each of us must take a responsible role in the preservation of freedom -- because freedom is a privilege that will always depend on individual responsibility, integrity, effort, courage, and religious faith;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 12-22, 1994, as SERTOMA HERITAGE FREEDOM WEEK in Illinois.

Issued by the Governor December 30, 1993.

Filed with the Secretary of State January 7, 1994.

94-003

ALCOHOLISM HALFWAY HOUSE DAYS

Whereas, the importance of community residences for persons recovering from the disease of alcoholism has long been recognized, Halfway houses provide a structured environment that offers comfort and counsel to their residents; and

Whereas, for nearly 30 years, the Association of Halfway House Alcoholism Programs (AAHAP) has done remarkable work in leading the movement to establish a nationwide network of alcoholism halfway houses; and

Whereas, to increase public awareness and support of the goals of the Department of Alcoholism and Substance Abuse, Illinois is proud to host the AAHAP's annual conference in Chicago. This will provide the opportunity to exchange information with professionals around the country and renew our efforts to provide services to the people in need, helping them to lead healthier, more productive lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30-May 2, 1994, as ALCOHOLISM HALFWAY HOUSE DAYS in Illinois.

Issued by the Governor January 3, 1994.

Filed with the Secretary of State January 7, 1994.

94-004

BANGLADESH DAY

Whereas, Illinois is home to several thousand Bangladeshi immigrants; and

Whereas, the Bangladeshi community is part of the rich ethnic background of Illinois; and

Whereas, the Bangladesh Association of Chicagoland (BAC) was founded in 1980 to enhance Bangladeshi culture, to assist Bangladeshi immigrants, students, and visitors in becoming familiar with the American way of life, and to develop and promote friendship and relationships among its members, the community, and other organizations; and

Whereas, the Independence Day of Bangladesh will be celebrated in Illinois on March 26, a day which marks the country's realization of freedom in 1971 and honors those who gave their lives for freedom's cause;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 26, 1994, as BANGLADESH DAY in Illinois.

Issued by the Governor January 3, 1994.

Filed with the Secretary of State January 7, 1994.

94-005

CATHOLIC SCHOOLS WEEK

Whereas, St. Mary School has provided children in the Mt. Vernon area with quality education for the past 25 years; and

Whereas, the National Catholic Education Association promotes parental choice in school selection and acknowledges the achievement of Catholic schools and their contributions to the educational system; and

Whereas, an investment in our young people is an investment in our future and our young people must be provided with the best educational opportunities; and

Whereas, the National Catholic Education Association has declared February 2, 1994, as National Appreciation Day for Catholic Schools;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 30-February 5, 1994, as CATHOLIC SCHOOLS WEEK in Illinois.

Issued by the Governor January 3, 1994.

Filed with the Secretary of State January 7, 1994.

94-006

LAND SURVEYORS' MONTH

Whereas, land surveying is one of the oldest technical services of mankind and our complex civilization depends more and more on surveyors' skills and accuracy to determine property rights and methods of design and construction; and

Whereas, the surveying skills of George Washington, the Commander-in-Chief of our Revolutionary Forces, may have had considerable influence on the winning of our national independence since Washington, a land surveyor before the war, directed the planning of military operations and selected the battle sites; and

Whereas, more than 80 years later when the states were threatened by a cruel division, another great president and former surveyor, Abraham Lincoln, was recognized as the "Savior of Our Country" after directing the campaigns that preserved our nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 1994 as LAND SURVEYORS' MONTH in Illinois in recognition of the two "Land Surveyor Presidents," George Washington and Abraham Lincoln, whose birthdays are observed this month.

Issued by the Governor January 3, 1994.

Filed with the Secretary of State January 7, 1994.

CONSERVATION, DEPARTMENT OF

- 17 Ill. Adm. Code 1070 Possession of Specimens or Products of Endangered or Threatened Species (P-1)
 17 Ill. Adm. Code 4010 Register of Land & Water Reserves (P-578)

EDUCATION, STATE BOARD

- 23 Ill. Adm. Code 245 Urban Education Partnership Program (P-10131/93; A-237)

EMPLOYMENT SECURITY, DEPARTMENT OF

- 56 Ill. Adm. Code 2770 Determination of Unemployment Contributions (P-17628/93; A-250)
 56 Ill. Adm. Code 2760 Notices, Records, Reports (P-16319/93; A-261)

ENVIRONMENTAL PROTECTION AGENCY

- 35 Ill. Adm. Code 184 Licensing of Industrial Hygienists (P-4)

FIRE MARSHALL, OFFICE OF STATE

- 41 Ill. Adm. Code 200 Storage, Transportation, Sale and Use of Liquefied Petroleum Gases (P-22)

HUMAN RIGHTS, DEPARTMENT OF

- 2 Ill. Adm. Code 926 Access to Information (A-512)
 2 Ill. Adm. Code 925 Rulemaking and Organization (A-525)

INSURANCE, DEPARTMENT OF

- 50 Ill. Adm. Code 1103 Life Reinsurance Agreement (A-685)
 50 Ill. Adm. Code 2017 Uniform Medical Claim and Billing (P-37)

POLLUTION CONTROL BOARD

- 35 Ill. Adm. Code 304 Effluent Standards (P-15223/93; A-267)
 35 Ill. Adm. Code 720 Hazardous Waste Management System: General (P-337)
 35 Ill. Adm. Code 721 Identification and Listing of Hazardous Waste (P-357)
 35 Ill. Adm. Code 725 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (P-377)
 35 Ill. Adm. Code 728 Land Disposal Restrictions (P-388)
 35 Ill. Adm. Code 702 RCRA and UIC Permit Programs (P-406)
 35 Ill. Adm. Code 703 RCRA Permit Program (P-419)
 35 Ill. Adm. Code 724 Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (P-439)
 35 Ill. Adm. Code 455 Standards for the Management of Used Oil (P-455)

PROFESSIONAL REGULATIONS, DEPARTMENT OF

- 68 Ill. Adm. Code 1315 Ill. Occupational Therapy Practice Act (P-590)
 68 Ill. Adm. Code 1285 Medical Practice Act of 1987 (RQ-21209/93; EC-312)

PUBLIC AID, DEPARTMENT OF

- 89 Ill. Adm. Code Child Support Enforcement (P-497) (A-697)
 89 Ill. Adm. Code Rights and Responsibilities (P-15461/93; A-273)

ACTION CODES

- A - Adopted Rule
 AR - Adopted Repealer
 P - Proposed Rule
 PF - Prohibited Filing Order by JCAR*
 PP - Peremptory or Court Ordered Rules
 PR - Proposed Repealer
 R - Refusal to meet JCAR Objection
 RC - Statement of Recommendation
 S - Suspension ordered by JCAR
 W - Withdrawal to meet JCAR Objections
 M - Modification to meet JCAR objections
 O - JCAR Statement of Objections
 RQ - Request for Correction
 EC - Expedited Corrections

*Joint Committee on Administrative Rules

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

AGING, DEPARTMENT ON

- 89 Ill. Adm. Code 240 Community Care Program (A-609)

AGRICULTURE, DEPARTMENT OF

- 8 Ill. Adm. Code 257 Cooperative Groundwater Protection Program (P-14288/93; A-205)
 8 Ill. Adm. Code 125 Meat and Poultry Inspection Act (PP-304)

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

- 80 Ill. Adm. Code 310 Pay Plan (P-13657/93; A-227)

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

- 89 Ill. Adm. Code 428 Department Advisory Council, Ill. Juvenile Commission & Other Statewide & Regional Committees (P-561)

COMMERCE COMMISSION, ILLINOIS

- 83 Ill. Adm. Code 315 Pole Attachment Rates, Terms & Conditions Applicable to Cable Television Companies, Electric Utilities & Telecommunications Carriers (A-676; M-795)

COMMUNITY COLLEGE BOARD, ILLINOIS

- 23 Ill. Adm. Code 1501 Administration of the Ill. Public Community College (P-569)

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